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Securing a Strong Retirement Act of 2022

This Finseca Policy Deep Dive publication was prepared exclusively for Finseca members by Josh Caron, Finseca VP Federal Affairs and Alex Kim, Finseca VP Public Policy.

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SECURE 2.0 Contains nearly 50 provisions of varying degrees of impact for Americans saving for retirement. The package also contains a series of revenue raisers designed to offset the increased spending. Click here for a One Page Summary and here for the Section by Section.

Reform Provisions

Automatic Enrollment in Retirement Plans (Section 101) - Automatically enroll participants to 401(k) and 403(b) retirement plans with the initial amount between 3% to 10%. Annual increase of 1% until it reaches 10%, but not to exceed 15%. *Effective Date: tax years beginning after December 31, 2023*

Credit for Small Business (Section 102) - For small businesses (50 or less employees), increase tax credit to 100% from current 50% for costs of setting up a new retirement plan. In addition, a new credit based on an employer's contribution to an employee retirement plan. *Effective Date: tax years beginning after December 31, 2022*

Student Loans (Section 111) – Allows employees with an outstanding balance of qualified student loans to repay the loan while employed, and have the employer contribute a matching contribution to the employee's retirement plan. *Effective Date: tax years beginning after December 31, 2022*

Increase Required Minimum Distribution (RMD) Age (Section 106) - SECURE 1.0 established the current RMD age of 72 when participants are required to begin taking distributions from a qualified retirement plan. SECURE 2.0 would increase it again to age 73 starting in 2023, age 74 in 2030 and age 75 in year 2033. *Effective Date: tax years beginning after December 31, 2022*

Increase IRA Catch-up Limit (Sections 107 and 108) – Allows for indexing of the current $1,000 IRA catch-up contribution limit for those age 50 and above. Increase annual limit for catch-up contributions to employer plans to $10,000 for individuals aged 62, 63, and 64. SIMPLE plans would also get a bump up to $5,000. *Effective Date: tax years beginning after December 31, 2023*

Reduction RMD Excise Tax (Section 302) – Currently, if an individual takes a distribution from a retirement plan that is less than the RMD for that year, an excise tax of 50% would apply to the difference. The proposal would reduce the excise tax to 25% (The 25% excise tax can be further reduced to 10% if the distribution shortfall is corrected within two years). *Effective Date: tax years beginning after December 31, 2022*

Finseca Specific Provisions

Charitable Distribution (Section 310) – Current rules permit an individual (age 70 ½ and above) to make a distribution from an IRA, equal to the RMD, to a qualified charity as a qualified charitable distribution tax-free. The measure would allow that same individual to make a one-time charitable distribution (up to $50,000, indexed for inflation) to a split-interest entity (Split-interest entity could be a charitable remainder annuity (CRAT), charitable remainder unitrust (CRUT) or a charitable gift annuity),. *Effective Date: tax years beginning after December 31, 2022*

Enhance Qualifying Longevity Annuity Contracts (Section 202) **-** The minimum distribution rules were an impediment to the growth of QLACs in DC plans and IRAs because those rules generally require payments to commence at age 72, before QLACs begin payments. The provision repeals the 25% limit with respect to contracts purchased or received in an exchange and also facilitates the sales of QLACs with spousal survival rights – and clarifies that free-look periods are permitted up to 90 days with respect to contracts purchased or received in an exchange on or after July 2, 2014. *Effective Date: Date of Enactment.*

Remove Required Minimum Distribution Barriers for Life Annuities - (Section 201) eliminates certain barriers to the availability of life annuities in qualified plans and IRAs that arise under current law due to an actuarial test in the required minimum distribution regulations. In operation the test commonly prohibits many important guarantees that provide only modest benefit increases under life annuities. *Effective Date: Date of Enactment.*

Omitted in May but Included in March Version

Enhancement of Saver's Credit (Section 104) - Simplifies the Saver's Credit by creating one credit rate of 50%, as opposed to the current tiered credit percentage. This rate is phased out once a taxpayer reaches a certain income level. *Effective Date: tax years beginning after December 31, 2026.*

Deferral of tax for certain sales of employer stock to employee stock ownership plan sponsored by S corporation (Section 117) - Under section 1042, an individual owner of stock in a non-publicly traded C corporation that sponsors an ESOP may elect to defer the recognition of gain from the sale of such stock to the ESOP if the seller reinvests the sales proceeds into qualified replacement property, such as stock or other securities issued by a U.S. operating corporation. After the sale, the ESOP must own at least 30% of the employer corporation's stock.

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Section 117 expands the gain deferral provisions of Code section 1042 with a 10% limit on the deferral to sales of employer stock to S corporation ESOPs. *Effective Date: Effective for deferrals made after December 31, 2027*.

Certain Securities Treated as Publicly Traded in Case of Employee Stock Ownership Plans (Section118) - updates certain ESOP rules related to whether a security is a "publicly traded employer security" and "readily tradeable on an established securities market". Allows certain non-exchange traded securities to qualify as "publicly traded employer securities" so long as the security is subject to priced quotations by at least four dealers on an SEC-regulated interdealer quotation system; is not a penny stock and is not issued by a shell company; and has a public float of at least 10 percent of outstanding shares. For securities issued by domestic corporations, the issuer must publish annual audited financial statements. Securities issued by foreign corporations are subject to additional depository and reporting requirements. The updated definitions will allow highly regulated companies with liquid securities that are quoted on non-exchange markets to treat their stock as "public" for ESOP purposes, thus making it easier for these companies to offer ESOPs to their U.S. employees. *Effective Date: effective for plan years beginning after December 31, 2026.*

Revenue Raisers

"Rothification" of Certain Retirement Contributions (Sections 601 – 604) - Simple IRA's and SEP IRA's permitted to take Roth contributions, all catch up contributions required to be Roth, optional treatment of employer matching contributions as Roth contributions. *Effective Date: taxable years after December 31st, 2022.*

Please feel free to share feedback or questions with Alex Kim (akim@finseca.org), VP Public Policy.