As part of the omnibus spending bill signed into law by President Biden on December 29, 2022, Congress took the opportunity to include the bipartisan-supported SECURE 2.0 Act in the legislation. The SECURE 2.0 Act builds upon the SECURE Act passed in 2019 by providing taxpayers additional opportunities to strengthen their retirement savings while also addressing deficiencies in prior legislation. Although this whitepaper doesn't address all provisions in the legislation, we have summarized those most likely to impact our clients.

Provisions Retroactively Effective to January 26, 2021

- **Permanent Rules for Qualified Federally Declared Disaster Distributions** – Permanently provides up to $22,000 of distributions from a retirement plan or IRA for costs associated with a qualified federally-declared disaster. These distributions are exempt from the 10% early distribution penalty, and the income recognition can be spread over three years for tax purposes. This provision also allows employers to increase loans and add favorable repayment terms for affected taxpayers. This legislative change is retroactive for disasters occurring on or after January 26, 2021.

Provisions Effective January 1, 2023

- **Required beginning date for Require Minimum Distributions (RMDs) –** Taxpayers that turn 72 after December 31, 2022, now have until age 73 to begin their required minimum distributions from qualified plans or Individual Retirement Accounts (IRAs). The required beginning date age will increase to 75 starting January 1, 2033.

- **Optional employer matching contributions as Roth contributions –** Allows a plan participant to designate some or all of their employer's matching contributions to Roth contributions. This opportunity only applies if the employee is fully vested in the contributions made on their behalf.

- **Qualified Charitable Distribution limit indexed –** The annual Qualified Charitable Distribution (QCD) limit of $100,000 will now be indexed for inflation. This provision also provides a one-time $50,000 charitable distribution to charities through charitable gift annuities, charitable remainder unitrusts, and charitable remainder annuity trusts.

- **SIMPLE and SEP Roth IRAs –** Allows plan participants to now make Roth contributions to both SIMPLE & SEP plans.

- **Reduction of excise tax on certain accumulations in qualified retirement plans –** The Act reduces the onerous penalty assessed when a taxpayer misses a required minimum distribution (RMD) from a retirement account from a 50% penalty to 25%. If the failure to take the RMD is corrected timely, the penalty is reduced to 10%.

- **Charitable conservation easements –** The Act disallows a qualified conservation easement deduction from a pass-through entity if the deduction claimed exceeds 2.5 times the total partner basis in that entity. The Act also provides several exceptions to this limitation.

Provisions effective January 1, 2024

- **Catch-up contribution deferral limitation –** Requires all qualified plan catch-up contributions for anyone earning more than $145,000 in the prior year to be classified as Roth contributions (i.e., nondeductible). The income limit will be indexed for inflation and require any employer with a qualified plan to allow for Roth contributions. If employers do not add a Roth feature, their employees will not be able to fund a catch-up contribution. Please note, employees will continue to be able to fund the regular elective deferral amount on a pre-tax basis with no income limits.

- **Indexing the IRA catch-up limit –** The Act now indexes the catch-up limit on IRA contributions.

- **Surviving spouse election to be treated as an employee –** Allows a surviving spouse to elect to be treated as the deceased employee, thus providing the opportunity to receive an extended distribution period under an employer-sponsored retirement plan. Previously, the surviving spouse must roll the plan assets upon the death of the employee spouse into an IRA to receive the extended distribution period. The surviving spouse must elect this provision for it to apply.

- **529 plan rollovers to Roth IRAs –** Permits a beneficiary to make a trustee-to-trustee tax-free transfer from a 529 account to their Roth IRA. To qualify, the 529 account must have been open for more than fifteen years, and the rollover amount can't exceed the lesser of $35,000, or the cumulative amount contributed to the 529 account more than five years before the rollover.

- **Roth employer plan distribution rules –** Previously, 401(k) participants were required to roll an employer Roth 401(k) into a Roth IRA to avoid RMDs during their lifetime. The Act eliminates the current RMD requirement from an employer Roth 401(k) plan.

- **Emergency expense withdrawals from eligible retirement plans –** A new exception to the 10% early withdrawal penalty will be added for distributions of up to $1,000 for certain unforeseeable or immediate financial needs once per year.

- **Changes to SIMPLE plans –** Elective deferral limits will expand for those over 50, and employers will also be able to make an additional uniform discretionary contribution to SIMPLE plans. The additional contribution limit is equal to the lesser of $5,000 or 10% of employee compensation.

- **Student loan payments eligible for employer matching contributions –** Permits employers to treat qualified student loan payments as retirement plan contributions for employer retirement plan matching contribution purposes.

- **Updating dollar limit for mandatory distribution rules –** Employers will now have the option to roll any participant account balances of $7,000 or less into an IRA for a former employee. Prior law limited the participant's balance to $5,000 or less.

Provisions effective January 1, 2025

- **Higher catch-up limit for anyone age 60 - 63 –** Increases the catch-up limit to the greater of $10,000 or 50% more than the catch-up amount in 2024. For SIMPLE plans, the rules will be the greater of $5,000 or 50% more than the catch-up amount in 2025. These updated limits are indexed for inflation starting in 2026. For anyone making over $145,000, the additional contributions must be Roth contributions as discussed above.

- **Retirement savings lost and found –** The Department of Labor (DOL) must establish a national online database to help retirees locate lost retirement plan assets. The DOL has two years from the date of enactment to develop this online database.

Provisions effective January 1, 2026, and beyond

- **Long-term care contracts purchased with retirement plan distributions –** Retirement plans can distribute up to $2,500 per year for the payment of specified long-term care insurance contracts. Distributions are exempt from the 10% early distribution penalty, but the policy must offer high-quality coverage to qualify. This provision is effective three years after the enactment, so likely January 1, 2026.

- **Modification of age requirements for ABLE programs –** Under prior law, an individual must have been declared disabled or blind before age 26 to establish an ABLE account. The Act increases this age from 26 to 46. Effective January 1, 2026.

- **Saver's match –** Eliminates the refundable Saver's Tax Credit and instead adds a federal 50% matching contribution of up to $2,000 paid directly to a taxpayer's IRA, retirement plan, or ABLE account. The matching contribution fully phases out at the following modified adjusted gross income levels $71,000 – MFJ; $35,000 – Single/MFS; and $53,250 – HOH. This provision is effective until January 1, 2027.

- **Deferral of tax for certain sales of employer stock to an Employee Stock Ownership Plan (ESOP) by an S Corporation –** The Act adds a 10% gain deferral for S Corporation stock sales to an ESOP providing the sale meets certain rules. This provision is effective for sales to an ESOP made after December 31, 2027.

Given many of the provisions above will require additional guidance from Congress and/or the Internal Revenue Service, we will continue to monitor the situation and provide future updates as necessary. If you are interested in discussing any of these provisions further, or any other component of the SECURE 2.0 Act, please contact your SilverOak Advisor or call 952-896-5700.