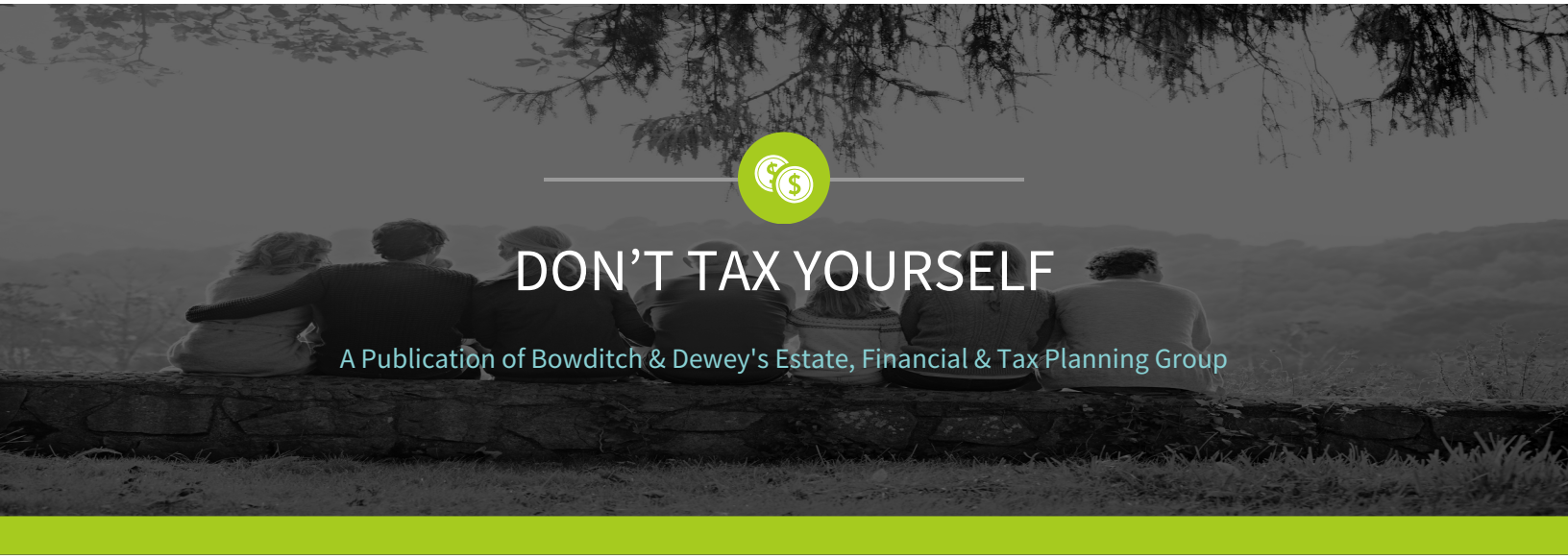


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Important Provisions from SECURE Act 2.0 for Individuals and Nonprofits

BY BOWDITCH & DEWEY • MARCH 21, 2023

On December 29, 2022, the Securing a Strong Retirement Act (commonly referred to as SECURE Act 2.0) was signed into law. This is follow-up legislation to the Setting Every Community Up for Retirement Enhancement Act, which went into effect January 1, 2020, and radically changed the rules for retirement plan accounts.

Some of the major SECURE Act 2.0 changes include:

- **Later Start Date for RMDs**: The age at which a retirement account owner must start taking required minimum distributions ("RMDs") increased from age 72 to age 73 starting January 1, 2023, and will further increase to age 75 starting in 2033. The RMD must be taken by April 1 of the year following the year the owner turns that age.
- **Decreased RMD Penalty:** In 2023, the penalty for failing to take an RMD will decrease to 25% of the RMD amount not taken, down from 50% in 2022. The penalty will drop to 10% if the IRA owner withdraws the RMD previously not taken and files a corrected tax return in a timely manner.
- **Increased Retirement Catch-Up Contributions for Ages 60–63:** Beginning January 1, 2025, the maximum catch-up contribution to eligible retirement plans will increase to $10,000 per year for workers ages 60-63. Under current law, the catch-up amount for workers ages 50 or older is $7,500 (adjusted annually for inflation). For workers earning more than $145,000 (adjusted annually for inflation) in the prior calendar year, all catch-up contributions at age 50 or older will need to be made to a Roth account with after-tax dollars (no pre-tax contributions will be allowed for such high-earning workers).
- **Enhanced IRA Qualified Charitable Distributions**
  - For the philanthropically inclined who are age 70.5 and older, a tax-efficient way to give to a charity is to make a distribution from their IRA directly to the charity. This type of distribution to a charity, known as an IRA charitable rollover or qualified charitable distribution (QCD), allows donors to exclude the IRA distribution from taxable income while meeting their RMD requirement.
  - Although the start date for RMDs is delayed to age 73 (and then age 75 in 2033), a person can currently make a

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QCD at age 70.5.

- The QCD amount is currently limited to $100,000 per year. Beginning in 2024, the QCD amount will be indexed for inflation.
- Beginning this year, there is allowed a one-time qualified charitable distribution of up to $50,000 (adjusted annually for inflation) to a charitable remainder annuity trust (CRAT), a charitable remainder unitrust (CRUT), or a charitable gift annuity (CGA) (or $100,000 from spouses from their respective IRAs), but only if such charitable trust or annuity is exclusively funded by qualified charitable distributions. The income beneficiaries of the CRAT or CRUT can only be the IRA owner and his or her spouse. The CGA must have payments beginning no less than one year after funding and such payments must be established at a payout rate of five percent or greater.

The provisions of SECURE Act 2.0 are contained in the Consolidated Appropriations Act 2023.

If you have any questions about SECURE Act 2.0 or estate planning with retirement plan benefits, please contact an attorney in Bowditch's Estate, Tax and Financial Planning practice area.

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