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Mandatory Autoenrollment for Retirement Plans Under SECURE 2.0

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As of 2025, the SECURE 2.0 Act requires all new plans (with a few exceptions) as well as all existing plans that adopted cash or deferral arrangements ("CODA") after December 29, 2022, to auto enroll employees in their plans. On January 9, 2025, the IRS issued the proposed regulations addressing mandatory auto enrollment rules. If your plan (with CODA) was signed prior to December 29, 2022, then your plan is exempt from mandatory auto enrollment rules.

In its Notice 2024-2, the IRS provided guidance on what plans (not employers) are grandfathered and thus exempt from mandatory auto enrollment rules. That is the plans that adopted CODA prior to December 29, 2022 even if CODA became effective after that date, as well as SIMPLE 401(k) plans. Another example would be if the plan had CODA and was restated after December 29, 2022, it is still exempt since the plan was "signed" (i.e. adopted) with CODA prior to December 29, 2022.

Under mandatory auto enrollment rules ("Auto Enroll"), all eligible employees must be enrolled in the plan. That includes all eligible seasonal, long-term part-time employees, highly compensated employes, and non-union employees. (Usually union employees address auto enrollment in their bargain agreements.) Auto Enroll does not expand coverage, but requires eligible employees be in the plan. Employees can affirmatively opt out of Auto Enroll. If Auto Enroll applies, then the starting deferral percentage is 3% (up to 10%) with mandatory annual increase (auto escalation) by 1% each year up to total of 15%. However, 10% is the lowest mandatory amount that Auto Enroll should increase to. Some employers may opt to start with 10% mandatory auto enrollment and leave it at 10%. There are special rules that apply to rehired employees. If an employee opted out for one year, the following year the employee must be auto enrolled again, unless the employee opts out again.

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If you have questions about the SECURE 2.0 Act, or any employee benefits related matter, please reach out to Nadia Havard, Brian Seelinger, or your Knox Law attorney.

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Nadia A. Havard concentrates her practice in all areas of qualified and nonqualified retirement plans and employee benefits; transfer taxes; fiduciary income tax and trust administration; business; as well as estate planning and administration. She also helps nonprofits obtain and maintain their tax-exempt status.

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