

# LEGAL UPDATE



## IRS Fact Sheet: SECURE 2.0 May Impact How Businesses Complete Forms W-2

The IRS is reminding businesses that, starting in tax year 2023, changes under the SECURE 2.0 Act may affect the amounts they need to report on their Forms W-2. On Aug. 29, 2024, the agency released a [fact sheet](#) that details the provisions potentially affecting Forms W-2 (including Forms W-2AS, W-2GU and W-2VI).

### Background

The Consolidated Appropriations Act of 2023 was signed on Dec. 29, 2022, which is an omnibus bill that includes the SECURE 2.0 legislation, referred to as such because it builds on the Setting Every Community Up for Retirement Enhancement (SECURE) Act of 2019. The legislation is intended to increase employees' retirement savings and makes numerous important changes that employers should be aware of. A section-by-section summary of the legislation can be found [here](#).

### SECURE 2.0 Act Changes

According to the IRS, the provisions potentially affecting Forms W-2 are:

- The reporting requirements that apply to contributions made to a Roth IRA under a SEP arrangement or SIMPLE IRA plan, or to a designated Roth account under an applicable retirement plan, depend on the type of contribution made.
- The IRS fact sheet includes a table that summarizes these reporting requirements.
- **De minimis financial incentives (Section 113):** This section allows employers to offer small financial incentives to employees who choose to participate in their employers' 401(k) or 403(b) plans. If an employer offers such an incentive, it's considered part of the employee's income and is subject to regular tax withholding unless there's a specific exemption.
- **Roth Savings Incentive Match Plan for Employees (SIMPLE) and Roth Simplified Employee Pension (SEP) Individual Retirement Arrangements (IRAs) (Section 601):** Under this section, an employer that maintains a SEP or SIMPLE IRA plan can offer participating employees the option to designate a Roth IRA as the IRA to which contributions under the arrangement or plan are made. Salary reduction contributions to a Roth SEP or Roth SIMPLE IRA are subject to federal income tax withholding, the Federal Insurance Contributions Act (FICA) taxes and the Federal Unemployment Tax Act (FUTA) taxes. These contributions should be included in Form W-2. Employer matching and nonelective contributions to a Roth SEP or Roth SIMPLE IRA are not subject to withholding for federal income tax or FICA and FUTA taxes. They must be reported on Form 1099-R for the year in which the contributions are made to the Roth IRA.
- **The optional treatment of employer nonelective or matching contributions as Roth contributions (Section 604):** Under this section, plans can allow employees to designate certain matching and nonelective contributions made after Dec. 29, 2022, as Roth contributions. These contributions are not subject to withholding for federal income tax and are generally not subject to withholding for Social Security and Medicare tax. Unlike regular Roth contributions, designated Roth nonelective and matching contributions must be reported on Form 1099-R for the year in which they're allocated to an individual's account.