

— SECURE 2.0

Retroactive First-Year Elective Deferrals for Sole Proprietors

Deadline Change for First Year Deferrals

The SECURE 2.0 Act makes it easier for individuals who own the entire interest in an unincorporated trade or business to make elective deferrals to a 401(k) plan for their first plan year. Beginning with plan years starting after December 29, 2022, sole proprietors and owners of single-member LLCs can establish a plan and fully fund it in the first year by using this provision.

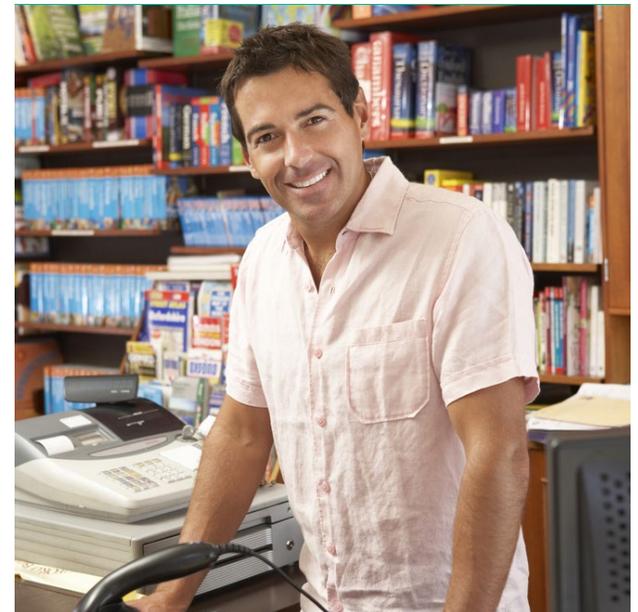
Rule Before 2020



The employer would have to **establish** the plan by December 31 in order to **fund** the plan by the tax return due date, plus extensions (TRDD+).

SECURE Act Rule

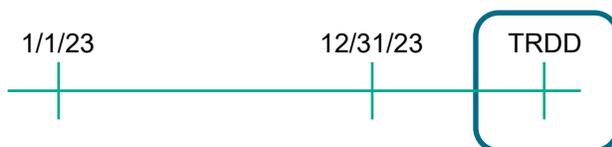
Under the SECURE Act of 2019 (SECURE 1.0), the employer was given until the tax return due date, plus extensions, to **establish and fund** the plan.



NOTE: *The employer needed to make a deferral election by the last day of the plan year. Practically, this was not possible because the plan was not even established by year end.*

SECURE 2.0 Rule

Under SECURE 2.0, an employer can **establish and fund** the 401(k) plan—including retroactive elective deferrals—by the employer’s individual tax return due date (no extensions).



NOTE: *SECURE 2.0 changes the rule—starting with the 2023 plan year—to allow for a retroactive deferral election, eliminating the earlier barrier. But the elective deferrals must be contributed by the employer’s tax return due date, without regard to any extensions.*

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