

# SECURE 2.0: Incentives for Plan Deferrals

We continue the series highlighting portions of SECURE 2.0 with a small provision that could add some fun and levity to retirement plan saving: Section 113, which permits the giving of small financial incentives for employee deferral contributions.

### What's the new rule in a nutshell?

The new rule permits employers to provide “de minimis financial incentives” to employees who elect to defer into an employer’s 401(k) or 403(b) plan. Practically, this means that employers can reward employees’ deferral elections by giving those employees small gifts or awards. This may especially appeal to employers who have already established similar incentive programs in their wellness programs.

### What's a “de minimis financial incentive”?

SECURE 2.0 doesn't define the term “de minimis.” The U.S. Senate’s section-by-section summary of SECURE 2.0 seems to suggest that gift cards in small amounts would be appropriate. One question is whether the “small amount” is measured as the actual award given or by the average cost spread out among all eligible participants. For instance, it seems likely that a \$25 gift card given to each person who enrolls is de minimis, but what about a \$2,500 trip that is given away in a raffle where 100 employees who enrolled are each given one chance to win? Unless and until guidance is issued, the safer course will be to keep the value of the rewards on the smaller side. Importantly, note that these incentives *cannot* be paid from plan assets, and regular fringe benefit taxation rules apply (meaning that gift cards likely are taxable to employees).



### Sounds great, when can we start?

Now! This optional plan provision was effective for plan years beginning after December 29, 2022. This is a great opportunity to pair with your TPA partner and start discussion with clients about whether and how to add an incentive program to deferral elections.

## Reminders

- **July 31, 2023:** Form 5330 due to IRS for reporting of excise taxes.
- **July 31, 2023:** Deadline to distribute annual benefit statement to participants in individual account plans that do not provide for participant-directed investments.
- **July 31, 2023:** Deadline to file or request an extension of Form 5500 for calendar year plans.



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Kelsey's practice is focused in the areas of Employee Benefits and Executive Compensation. She works with business owners and HR executives to understand and manage employee benefits and executive compensation arrangements. She routinely represents clients before the Internal Revenue Service, Department of Labor, and Pension Benefit Guarantee Corporation and has extensive experience in virtually all aspects of employee benefit plans and executive compensation arrangements.