

Additional SECURE and SECURE 2.0 Plan Provisions Employer Election Form

IMPORTANT: The SECURE and SECURE 2.0 Acts created many optional provisions for SIMPLE IRA plans. This form is designed to allow you, the Employer, to specify how you intend to operate your Plan with respect to these provisions until formal Plan amendments become available. Complete, sign, and keep this election form with your SIMPLE IRA Plan documents to document your elections for the Plan.

Section A. General Information

Name of Plan _____

Name of Adopting Employer _____

Address _____

City _____ State _____ Zip _____

Section B. Additional Contribution Provisions

Select any of the following provisions that will apply to the Plan and indicate when they become effective, if applicable.

1. **Optional Increased Elective Deferrals and Catch-Up Contribution Limits** (Only available for eligible Employers who employed 26-100 Employees earning \$5,000 or more in the previous calendar year and did not offer a retirement plan under Internal Revenue Code sections 401(a), 403(a), or 403(b) to the same Employees during a three-taxable-year period preceding the year that the Employer established the SIMPLE IRA Plan.)

Will Participants be allowed to make Elective Deferrals and Catch-Up Contributions of up to 110 percent of the 2024 otherwise applicable limits under the Plan? (For years beginning after December 31, 2024, this amount is subject to annual cost-of-living adjustments.) (Select one)

- Option 1: Yes.** Participants may make increased Elective Deferrals (including Catch-Up Contributions, if applicable) of up to 110 percent of the 2024 Elective Deferral and Catch-Up Contribution limits to this SIMPLE IRA Plan effective for the calendar year beginning January 1, _____.

NOTE: By selecting this option, you acknowledge that the Employer Matching Contribution (if applicable) must be increased to 4% of an eligible Employee's Compensation and the Employer Nonelective Contribution (if applicable) must be increased to 3% of an eligible Employee's Compensation for the year.

- Option 2: No.**

- Option 3: Not applicable.** The Employer did not employ 26-100 Employees earning \$5,000 or more in the previous calendar year.

NOTE: If no option is selected, Option 2 will apply. The election to apply the increased limits is valid until revoked by the Employer.

2. **Mandatory Increased Elective Deferrals and Catch-Up Contribution Limits** (Automatically applies to any Employer who employed no more than 25 Employees earning \$5,000 or more in the previous calendar year and did not offer a retirement plan under Internal Revenue Code sections 401(a), 403(a), or 403(b) to the same Employees during a three-taxable-year period preceding the year that the Employer established the SIMPLE IRA Plan. Indicate below whether this provision mandatorily applies to your Plan.)

Do the mandatory increased Elective Deferral and Catch-Up Contribution limits of up to 110 percent of the 2024 otherwise applicable limits apply to this Plan? (For years beginning after December 31, 2024, this amount is subject to annual cost-of-living adjustments.) (Select one)

- Option 1: Yes.** Effective January 1, _____ this Plan is required to allow Participants to make increased Elective Deferral and Catch-Up Contributions.

- Option 2: No.** The Employer employed 26-100 Employees earning \$5,000 or more in the previous calendar year.

NOTE: If no option is selected, Option 2 will apply.

The increased Employer Matching and Nonelective Contribution requirements do not apply to Employers that are subject to the mandatory increased Elective Deferral and Catch-Up Contribution limits. If you increase the number of Employees during a year to more than 25, you will still be treated as having 25 Employees for two years following the last year you had no more than 25 Employees. The increased Employer contribution requirements will not apply during this two-year grace period.

3. **Additional Nonelective Contributions** (Employers may make additional Nonelective Contributions of up to 10 percent of an eligible Employee's Compensation, up to a maximum of \$5,000. This optional contribution is in addition to any required Employer Contribution of, generally, a three percent Matching or two percent Nonelective Contribution already being made to the Plan.)

Will the Employer make additional Nonelective Contributions to the Plan? (Select one)

Option 1: Yes. Effective January 1, _____ the Employer will make additional Nonelective Contributions to all eligible Employees in a uniform percentage of up to 10 percent of Compensation, up to a maximum of \$5,000 annually per eligible Employee.

Option 2: No.

NOTE: If no option is selected, Option 2 will apply.

Section C. Roth SIMPLE Contributions (Select all that apply.)

1. **Availability of Elective Deferrals as Roth SIMPLE Elective Deferrals** (Select one)

Will a Participant be permitted to make Roth SIMPLE Elective Deferrals in addition to or in place of pre-tax Elective Deferrals under the Plan?

Option 1: Yes. In addition to pre-tax Elective Deferrals under the Plan, a Participant may choose to make Elective Deferrals as Roth SIMPLE contributions into the Plan effective _____ (mm/dd/yyyy).

Option 2: No.

NOTE: If no option is selected, Option 2 will apply.

2. **Availability of Employer Matching or Nonelective Contributions as Roth Contributions** (Select one)

Will an eligible Employee be permitted to choose to receive Employer Matching or Nonelective Contributions as Roth SIMPLE contributions in place of pre-tax Employer Contributions under the Plan?

Option 1: Yes. An eligible Employee may choose to receive Employer Matching or Nonelective Contributions as Roth SIMPLE contributions into the Plan effective _____ (mm/dd/yyyy).

Option 2: No.

NOTE: If no option is selected, Option 2 will apply.

Section D. Employer Acknowledgment and Signature

- I understand that I am responsible for ensuring that the changes above accurately reflect the operation of my SIMPLE IRA Plan as of the effective dates stated above, that all eligible Employees are informed of the changes to the SIMPLE IRA Plan, and that such changes are in compliance with the laws governing SIMPLE IRA plans.
- I acknowledge that I have taken all necessary actions to initiate the changes above (e.g., board resolutions). In addition, I understand that it is my responsibility to notify the applicable payroll providers and/or SIMPLE IRA Trustees, Custodians, and Issuers of the changes to the operation of my Plan.
- I acknowledge that the Treasury Department has issued minimal guidance pertaining to the SECURE and SECURE 2.0 Acts and that there is additional anticipated guidance expected that may affect Plan operation decisions. I assume responsibility for any operational errors that may result from such future guidance unless the IRS provides relief.
- I understand that this form is not, nor is it intended to be, an amendment to the Plan; that I will be responsible for reviewing and executing an amendment in the future to formally adopt these changes; and that the SIMPLE IRA Prototype Sponsor is not providing legal or tax advice.

Signatures

Name of Adopting Employer

Date Signed

X

Signature for Employer

Title