PAYCHEX THRIVE
A BUSINESS PODCAST

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The Impact of SECURE Act 2.0 and the Changing Retirement Landscape

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Speaker 1:
Welcome to Paychex THRIVE, a Business Podcast, where you'll hear timely insights to help you navigate marketplace dynamics, and propel your business forward. Here's your host, Gene Marks.

Gene Marks:
Hey everybody, and welcome back to another episode of THRIVE by Paychex. My name is Gene Marks, very, very happy to have you here, and I'm very happy to have Brian Graff here. Brian is the CEO of the American Retirement Association. Brian, first of all, thank you for joining me.

Brian Graff:
Gene, pleasure to be here. Hi, everyone.

Gene Marks:
I am glad that you're... First of all, is it The American Retirement Association, just to make sure? Or is it like...

Brian Graff:
It's the Amer... Well, yeah, for referencing it, but technically, American Retirement Association.

Gene Marks:
Right, it's kind of like Ukraine. Ukraine is a, [inaudible 00:00:51]. Well, I'm glad you're here. We have a lot to talk about. As you know, and as we said even before we got started with this, our audience are business owners, people that are employer-owned businesses for the most part. And this conversation is going to be about retirement options, particularly the SECURE Act, and some of your thoughts on it. But before we even get to that, Brian, tell us a little bit about yourself, a little bit about the American Retirement Association.

Brian Graff:
Sure. The American Retirement Association, ARA, is the umbrella organization for five different retirement plan-focused membership organizations. Without getting into too many details about all of them, all totaled, about 40,000 retirement plan professionals throughout the country, whose profession is to help

employers like Paychex customers, put retirement plans in for their workers, and help those workers save and plan for retirement. In fact, we work with folks at Paychex who are helping their customers put plans in for retirement as part of the services that you offer as a company. So, some of the folks who work at Paychex are actually members of the ARA.

Gene Marks:
That is great. And so you're representing retirement plan professionals, so I guess that can be anybody that implements retirement plans. It can be larger firms like Paychex, it can be smaller individual consultants or wealth managers...

Brian Graff:
Advisors that work in small towns throughout the country, yep.

Gene Marks:
Got it. Okay. So geez, this SECURE Act had to be a big deal for you. This is a thing that... There's such a push now, and it's coming from the highest of levels, to get more people saving for retirement, and therefore to motivate and encourage as many business owners as possible to set up 401(k) plans, to get people to put money away into them. And that's kind of awesome for you guys, or at least for the people that you represent.

Brian Graff:
Very much so. With the SECURE Act, or they're calling it SECURE 2.0, because they did the original SECURE a few years ago, as you're alluding to, one of the major themes of that legislation is getting more businesses throughout the country to offer these workplace savings programs to their employees. Because what we know, the data is indisputable. People who are working in this country, moderate income workers, middle income workers, they are 15 times more likely to save, 15 times, if they have access to a plan through the workplace, as opposed to saving on their own in an IRA.

Brian Graff:
And it's the convenience of that payroll deduction, which you guys know very much about, it's the incentive of the match that's often offered by a lot of employers, and it's the culture of savings that's fostered in the workplace, versus people doing it on their own. So, workplace savings works. It's bipartisan, both sides recognize that the only way we've ever been able to get middle income America to really save and invest is through workplace savings programs. So, yes, you're 100% right. This bill, one of the key themes, if not the most important theme, is trying to incentivize employers to adopt one of these plans. And we can talk a little bit about the details on how that works.

Gene Marks:
Yeah, we'll dig into those in just a minute. First of all, I'm an employer. I have 10 people in my company. And we're a CPA firm and advisors, and Brian, sometimes I cannot believe when my clients, even my smallest of clients, don't offer a 401(k) plan. The SECURE Act, and SECURE 2.0, provides tax credits that will essentially pay for the setup of these plans anyway, not that it was that expensive to begin with.

Brian Graff:
No, costs have really come down on these plans.

Gene Marks:
It really wasn't that big a deal, and yet so many of my clients were still resisting. That must be the biggest frustration for you and your members as well, when you're out talking to small business owners that aren't doing it. So do you think SECURE 2.0 will make a significant difference? Or do you...

Brian Graff:
I do. And let me explain. The biggest problem, Gene, has been, it's not so much that the costs are too expensive, that's part of it for some firms who are micro companies that don't really make a lot of money, but there's close to a million small businesses that don't have retirement plans in the workplace. These plans are... For better or worse, someone has to go and talk to the business owner to have one of these plans, because the folks listening to your program, they're busy running their businesses. They're not sitting around saying, "Oh, this is another benefit I can offer." HR issues are the last thing that they want to think about. And so someone's got to go in there and kind of explain to them, "Hey, this is not that expensive. It's a great thing to offer to your workers."

Brian Graff:
And now we've got an incentive system with these tax credits that you're mentioning, which will help subsidize the cost of having someone go in and essentially sell this plan to the employer. Because companies with less than 50 employees, they can get government subsidy for the cost of starting up and running the plan for three years, up to $5,000 a year. It's basically $250 per employee, with a cap of $5,000. And that covers everything, it's 100% credit.

Brian Graff:
And so, you're right. Essentially, you can get this plan now for free, and there's even a new super simple plan called the Starter-K, where there's no testing involved, it's really, really easy, and it's essentially a free employee benefit that can be offered to workers. Now, because of these changes, companies like Paychex, others, are now incentivized to go out and offer these programs to small businesses that don't have a plan.

Gene Marks:
What do you say, there are some states, New York, California, others that are not only requiring that employers have retirement plans set up, but are also mandating, if they don't do it, they're going to use the state's plan. What are your thoughts on that? If you're advising a client or a company in California, do you point them towards the state plan? Or do you say, "You should be setting up something on your own and leveraging the SECURE 2.0 tax plan"?

Brian Graff:
Exactly. And that's the beauty of this legislation, is it allows for companies to satisfy those requirements in those states. It's actually proliferating. It's California, Oregon, Illinois, Connecticut, Virginia now, New Jersey, New York, Connecticut, Pennsylvania's probably going to pass it, Colorado just passed it, it's spreading. It's going to reach a point where there's only so many blue states left, but actually, believe it or not, I had a conversation with a member of the Arkansas Senate last week about this, Republican, obviously.

Brian Graff:
So, it's going to continue to proliferate, and what's great about the SECURE Act, is with the Starter-K and the tax credits, it actually offers employers in those states a private sector alternative, because the idea of sending the money to the state government is not necessarily the favorite idea for some employers. Plus, the fact that the state programs are individual retirement accounts, so every employee has a separate account that's a little bit more administratively challenging to put together, whereas with the Starter-K, it's like a traditional 401(k). And so it's a single plan trust, it'll probably be offered by companies like Paychex as part of a PEP or a MEP, a pooled plan, and so it'll be easier to implement for those small businesses.

Gene Marks:
Yeah, when I talk to my... I'm based in Pennsylvania as well, so I'm well aware that these mandates might be coming, and it just seems like you have more flexibility, you can work with a greater number of outside advisors, you have more control over the investments, it's your company's plan, rather than [inaudible 00:09:42]-

Brian Graff:
You have control over the investments, whereas with the state, you don't. So, exactly.

Gene Marks:
And if you go with a Pooled Employer Plan, which a lot of companies like Paychex are offering, you have the ability... Your fiduciary responsibilities are almost...

Brian Graff:
Are greatly, greatly reduced.

Gene Marks:
Correct.

Brian Graff:
And the costs are greatly, greatly reduced.

Gene Marks:
Got it. SECURE 2.0, so we've all had some time to digest that. We've actually done a few episodes on this. We've talked about it a little bit. I'm kind of curious if there's any specific thing in that legislation that really, if you were a business owner, would really appeal to you. That you're like, "Wow." I'm going to tell you what mine is, to give you some time to think about that, but the provision in the legislation that will actually offer tax credits of up to $1,000 per year for some employers of a certain size, to contribute money to their employers is basically saying to these small employers, "Put money into your employees 401(k), and we'll give the money back to you in the form of a tax credit." To me, that's like...

Brian Graff:
Not only we're going to cover the cost of running the plan, if you want to offer a match, we're going to give you... And by the way, that match for employer contributions, for matching contributions, is up for employers up to 100 employees.

Gene Marks:
Yes. It starts going down after 50, I think, the level of the match, correct? I think it's a good $1,000-

Brian Graff:
No, that's 100% match for employers up to 100 employees, for the employer contribution. The ratcheting down of the match is with respect to the startup cost.

Gene Marks:
Okay, fair enough.

Brian Graff:
So, for the credit for the employee contributions, it's 100%, and it's up to $1,000 per employee for the first year, a 75% credit in the next year, so that's what's ratcheting down...

Gene Marks:
That's the strategy, yeah, that's correct.

Brian Graff:
Per year. But still, yeah, we're going to cover your costs for running the plan, and if you want to do a match, we're going to cover those costs too. So yeah, you have to ask yourself, to a small business owner, "Why wouldn't you want to offer this benefit?" And one thing that to add to that, listen, you're an employer, I'm an employer, you know how hard it is to keep employees these days, particularly younger people, a lot of them are saddled with student debt, even though temporarily they don't have to make any payments right now, eventually, that is going to stop. And they will have to resume making student loan payments. And my personal favorite provision in this legislation is a provision that would allow you as an employer to offer as a benefit, a matching contribution that treats the student loan payment as if they were making a contribution to the plan...

Gene Marks:
Couldn't agree more.

Brian Graff:
Because a lot of those younger workers can't afford to put money in the plan. In fact, 84% of them surveyed, the reason they don't save in the 401(k) is because they have the student loan payments to make. And so this is a great way to give them an enhanced benefit at a relatively low cost to the employer, and have them more connected to the workplace, which is obviously a big part of trying to keep them employed.

Gene Marks:
Yeah, I couldn't agree with you more. That is an amazing benefit. And what's funny is as much as I was tracking all of this, that one came out of the blue for me, and maybe because I wasn't tracking as closely as I should, but it's a really smart idea, particularly when you've got so many workers, Millennials, Gen Z-ers, that are so overburdened by student debt, regardless of whatever forgiveness may or may not be coming. To give the employers the chance to treat their student loan repayments as a contribution to a 401(k) they can match it and put that money away, I just think that is great.

Gene Marks:
Some other provisions that I really liked, I like the emergency withdrawal provision as well. For some of my clients, particularly my smaller ones, they have employees, people get in a bind, they have an issue, whatever their emergency is, and I got to tell you, Brian, it is not uncommon for a client of mine or a business owner to step up and have to, "Oh, this person really needs some help. I'll loan him a couple grand." And it's just another thing that a business owner has to worry about. The ability now for an individual to take money out without being penalized in a 401(k), I think that ...

Brian Graff:
Yeah, up to $1,000, over a 12-month period, there would be no penalty tax, the burden's not on the employer to figure out whether it's a legitimate emergency or not, it's completely... They can rely on what the employee says. Basically, it's $1,000, and no 10% penalty for early withdrawal. If it comes out of a Roth account, then it's going to be tax-free, and they can do it again as long as they put the money back in. But they don't have to write a separate check, that money going back in can just come out of the regular paycheck deferrals that they make every two weeks, or however the payroll is working for that particular company. So it's really simple. And that was designed that way. It was one of our proposals so that there'd be a way to address the issues around the pandemic, and people not having any emergency savings. This way, we're not creating a whole new system, we're using the existing workplace savings system, and doing it in a way that's the least burdensome to small business owners.

Gene Marks:
Give me your thoughts on Roth accounts as well. The SECURE 2.0 offered some more flexibility with Roth 401(k)s, which is a benefit. I find a good number of my clients don't really appreciate the value of these Roth accounts. We've been seeing some and advising some that are of a certain age to take distributions from their 401(k), cash out now because stock market asset prices have declined, so they can take less of a gain on it, but then they put it back into a Roth, and then it grows tax-free forever. And I'm curious to see if you're seeing more interest in Roths, and your thoughts on the provisions in SECURE.

Brian Graff:
Well, this proposal is pretty Roth happy.

Gene Marks:
It is, there's a lot of Roth in there.

Brian Graff:
And there's a lot of reasons for that. Some of it has to do with budgetary scoring policies of Congress, which maybe not the best from a fiscal standpoint in terms of the government fisc, but it's good for your personal fisc, so let's focus on that aspect. I think what's going on here is recognition, on the part of policy folks like myself, that for a lot of American workers, particularly anyone making less than $100,000, they should be saving a Roth, on a Roth basis. It just doesn't make any sense.

Brian Graff:
Frankly, unless you're really towards the top of the tax brackets, and you live in a state where there's at least some tax rate, you really should be saving on a Roth basis. And actually, there's a requirement beginning next year that all catch-up contributions have to be Roth. And then there's also provisions that would allow, assuming the employer wants to do this, so it's not forced on the plan sponsor, but if the plan sponsor's willing to, the employee can choose to convert immediately any matching contributions and employer or profit sharing contributions to, to Roth, and there's no income restrictions on this. So, anybody, including the owner, can decide, "Hey, if I'm getting matches, I can pay tax on them now, and they're going to go into the Roth bucket of the 401(k) as opposed to the pre-tax bucket." And I think there's going to be a lot of business owners and others who are going to take a look at that from a tax planning standpoint and say, "Hey, this is a pretty good deal. I want to pay my tax now and have that money grow tax-free."

Brian Graff:
I will say this, one thing that the way I describe it to people, even at the higher tax brackets, what I say to them is, "Listen, if you're making a Roth contribution and you're at the max, in effect, you're getting a higher limit, because by paying your tax in advance, you're putting more money in." And so, I think you get that, trying to get more people to do this on a Roth basis is certainly part of our approach to this, and that's reflected in the bill. The other thing that's a big part of this is auto enrollment.

Gene Marks:
I was going to bring that up.

Brian Graff:
All these new plans now have to be automatically enrolled at least 3% with auto-escalation, to at least 10%. And auto escalation, every year, goes up by 1%.

Gene Marks:
And if I can interrupt, that's for new employees after a certain amount right?

Brian Graff:
That's for new plans.

Gene Marks:
New plans.

Brian Graff:
Any plan that was adopted beginning this year on, any plan. Even if it's a company that's had other plans and they buy a new company, and they put a new plan in, this would apply. All the participants have to be auto enrolled at 3%. And again, this is all based on real data that shows when you've got more moderate income workers and you auto enroll them and auto escalate them, it works. The opt-out rates are amazingly, and on a relative basis pretty low, and the numbers start really accumulating in a meaningful way. And so that that's really producing a real benefit for these workers, and we know that. So, Congress is saying, "We like automatic enrollment." We didn't have the political will to impose on existing employers, but I will say this, there's definitely a movement in that direction. And I would suggest SECURE 3.0, which is admittedly a few years away, is going to start inching towards, even for existing retirement plans, imposing some type of auto-enrollment requirement.

Gene Marks:
I agree with you, mainly because social security continues to be an entitlement program, so a bigger and bigger issue, people are looking at it even harder now, and it's becoming a reality that the system is not going to support itself. And one way out of that problem is by giving every motivation possible for people to put money away for their own retirement. And making automatic enrollment, even for existing plans and existing employees, seems like a natural way to go about doing it. As long as you give people the ability to opt out, so they don't feel like they have a gun against their head. So, that'll be the debate. It'll be interesting to see. I don't consider that to be a mandate, again, if people have the choice of backing out. What it will be is some regulatory work, some administrative work, that an employer would have to do. But hey, that's why you guys are around.

Gene Marks:
Let me ask you a question. When we were talking about SECURE 2.0, while it was still... I'd interview a few congressmen that we're working on, that were sponsoring. There was a bill in the House and there was a bill in the Senate, and then it got reconciled into what we're seeing now as SECURE 2.0. At one point, there was supposed to be a database out there where you could search for any retirement. It was close to home, because I remember my wife, she worked for a few years as a school teacher, forgot she had a 401(k). And you wouldn't believe the hoops, she had to try and find it, and where was it, and who's got it, whatever. But, there's supposed to be this magical database. And the other reason why I bring that up is because as part of SECURE 2.0, it's now become easier for part-timers to be enrolled in...

Brian Graff:
Yes. So, the likelihood of more missing participants is... So, you're right on both accounts. So, there's a provision in the bill that would require the Department of Labor, EBSA, which is the Employee Benefits Security Administration, part of the Department of Labor, to put up a website where they would gather data from all the record keepers throughout the country to populate with information around accounts where the plan sponsor and the record keeper can't find the participant for whatever reason. Or the participant doesn't even know that they have an account. And so, in your case, you're somehow probably the 403(b) provider for your wife's account, couldn't track her down, and your wife had forgotten about it, you guys moved, and somehow at that point...

Gene Marks:
All that. All that.

Brian Graff:
All that stuff, and maybe you got married and she changed her name, that makes it more complicated. And so this is where that kind of information could be housed, and hopefully it'll help people, make it a lot easier for them to find those missing accounts. And then the other thing that you pointed out, which a lot of the folks listening need to be aware of, is next year, beginning in '24, part-time workers who've been defined as people who work at least 500 hours for two consecutive years, will start having to be eligible to save.

Brian Graff:
Traditionally, 401(k) plans, you have this 1,000 requirement, which is intended to be a proxy for full-time employment, but there's a lot of folks out there who work on a permanent, part-time basis. Now they're going to have to be eligible to save. They don't have to get an employer contribution necessarily. They can still be excluded from a match, or those can be reserved still for full-time workers, but you have to at least let them put money out of their paycheck into the plan. And there's some rules that we got added to that requirement to make it easier for the employer to, frankly, instead of counting two sets of hours, to just let everybody save when they become an employee, and then they only start getting employer contributions when they reach that thousand hour threshold.

Gene Marks:
I see.

Brian Graff:
Which is a lot simpler to explain to a business owner than, "Oh, you got these 500 hour people, and these 1,000 hour people."

Gene Marks:
All right. Two more questions, and I'll let you go. First is, the SECURE 2.0 has increased. This is going to be over the next, I think, 10 years or so. The age of required distributions that you need to take from a plan. I think it's going to ultimately go up to the age of 75. Meanwhile, in France, everybody's freaking out because they're not entitled to benefits until they're, I think, 64, from the age of 62.

Brian Graff:
I think it's 62 now, and they're going to bump it to 64. That's right.

Gene Marks:
Yeah, everybody's freaking out there. Here, it's like 75 you can keep working.

Brian Graff:
I don't know if you know this, but literally every year at this time of year, there's usually protests in Paris over changes to the pension system.

Gene Marks:
On something like this, yeah.

Brian Graff:
Yeah, pretty much every year.

Gene Marks:
That is because the French have lived many eons of civilizations longer than us, and they know about balance in their lifestyle. They're smarter than us. Here we are, we're raising the age where you can keep working and keep working. And that's my question to you. Do you think that that will have an impact on employees for a business? Yeah, we're living longer, we're healthier, do you think that by raising that age of requirement, allowing people to say more, as a business owner, that's going to give me the opportunity to say, "Hey, some of my older workers can work a couple extra years."

Brian Graff:
Well, listen, I think there's a reality that most Americans are getting the sense that they're going to have to work a little bit longer than that they were planning on. Because frankly, as a society, we're living longer, which is a good thing. And this notion that we can be retired for 30 years, it's not really the most practical. Now obviously there's different points of view in, this is a very controversial subject. I've done some programs recently on social security, and there's nothing more of a lightning rod than discussing social security reform.

Brian Graff:
But at least in terms of the private system, without question, there's recognition that people are living longer, and that required beginning date for minimum required distributions hasn't really kept up with life expectancy increases. And so easy rule of thumb for your listeners to remember, instead of the more complicated statutory language, we've converted this to a very simple two set rule. Basically, if you were born between 1950 and 1959, you're going to be age 73. That's going to be your age. And then anything after 1960 or later, and after '59, so 1960 or later, it's going to be age 75.

Gene Marks:
Makes sense.

Brian Graff:
One more time, '50 to '59, age 73, '60 or later, age 75. If you're before '50, it's 72.

Gene Marks:
Got it. Okay. Takeaways from this conversation, then, Brian. With all the changes that are going on, what are you telling your members to tell their clients, particularly clients that own businesses? What should they be doing in 2023?

Brian Graff:
So, for folks with existing plans, what my members are talking to them about is think about the opportunity to the student loan benefit...

Gene Marks:
Yep. That's a good one.

Brian Graff:
... Deciding how you want to comply with the part-time worker rule to the extent that you've got part-time workers, and like I said, there's easier, simpler ways to comply with it than others. And then Roth. How do we start talking about the benefits of Roth in a more meaningful way? As you suggested before, a lot of employees, and a lot of employers, haven't really fully embraced Roth as much as I think a lot of people thought they... And frankly, what a lot of financial experts think the way they should. And so by requiring catch-ups to Roth, it reopens that conversation in a significant way that both the business owner and the employees need to think about.

Gene Marks:
Great advice. I'll be thinking a lot about Roth this year and talking about it with my clients. I do think it's a big opportunity for a lot of people. Brian Graff is the CEO of the American Retirement Association. Brian, what is your website?

Brian Graff:
USARetirement.org.

Gene Marks:
Fantastic. Hey, thank you very much. Great conversation. I have lots more questions to ask you on retirement related issues, ESOPs and succession planning and things like that, not for this discussion, but we'll talk again, I promise. We'll come on back.

Brian Graff:
I would appreciate the opportunity. Thanks, Gene.

Gene Marks:
Thank you. Hey everybody, thanks so much for listening. You've been listening to an episode of Paychex THRIVE. My name is Gene Marks, hopefully you've enjoyed this conversation and got some good information from it. If you have any suggestions for topics or guests, please visit us at our webpage, that's Payx.me/ThriveTopics. That's Payx.me/ThriveTopics. Thanks so much again for listening. We'll be back shortly with another episode. Take care.

Gene Marks:
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Speaker 1:
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