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SECURE Act 2.0: IRS Issues Final Regulations on Catch-Up Contributions



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The SECURE 2.0 Act of 2022 ("SECURE Act 2.0") makes many changes impacting retirement plans. Among the most significant are changes affecting "catch-up" contributions. The IRS recently [finalized regulations](#) relating to these changes. In a nutshell, SECURE Act 2.0, together with the final regulations, provide:

- **Roth treatment for higher earners:** Catch-up contributions made by employees who earned \$145,000 or more in FICA wages (measured as of the prior year and indexed annually) are required to be made on a Roth basis. This provision applies for plan years beginning on or after January 1, 2026.
- **"Super" catch-up contributions:** Plans can permit a higher catch-up contribution limit for employees who attain age 60, 61, 62, or 63 during the plan year. For 2025, this limit is \$11,250 (the regular catch-up limit for 2025 is \$7,500). This provision took effect for plan years beginning on or after January 1, 2025.
- **Plan amendment deadline:** With respect to both provisions, the plan amendment deadline is December 31, 2026, and a good faith interpretation standard applies to plan years beginning before January 1, 2027.

These rules are described in more detail below. Also discussed below is administrative guidance provided under the final regulations regarding the implementation of these features in plans.

Roth Catch-Up Treatment for Higher Earners

The Internal Revenue Code (the "Code") permits 401(k), 403(b), and 457(b) plan participants age 50 and older to make "catch-up" elective deferrals beyond the Code Sec. 402(g) limit. (In 2025, this standard limit was \$23,500, and the regular catch-up limit was \$7,500.) Section 603 of the SECURE Act 2.0 amended this rule to require that catch-up contributions must be treated as Roth (instead of pre-tax) when made by participants who earned \$145,000 or more (subject to annual cost-of-living adjustments) in FICA wages during the prior year. Participants pay taxes up front on Roth contributions, but earnings on these contributions are non-taxable if holding period and other requirements are met.

Effective Date

The Roth catch-up rule takes effect for plan years beginning on and after January 1, 2026, though a good faith interpretation standard applies for plan years beginning before January 1, 2027. This rule was initially set to be effective for plan years starting after January 1, 2024, but was delayed by the IRS for two years (see IRS Notice 2023-62).

Aggregation of FICA Wages Towards the Threshold

For purposes of determining whether a participant is subject to the mandatory Roth catch-up rule, the final regulations clarify that prior year Social Security wages (reported in Box 3 of Form W-2) are counted toward the \$145,000 threshold. The IRS indicated in

the preamble to the final regulations that W-2 Box 5 wages (i.e., Medicare wages) can be used by plan sponsors for plan years beginning before 2027 (under a good faith interpretation of this rule).

In addition, the regulations provide that only wages that the employee receives from their common law employer (i.e., to which the employee is directly providing services) are required to be counted toward the income threshold. If other members of the common law employer's controlled group (as defined under Code Sections 414(b), (c), (m), or (o)) participate in the plan, any FICA wages received by the participant from such other employers can, but are not required to be, aggregated toward the income threshold. Similarly, wages received from an employer that shares a common paymaster with the participant's common law employer can, but are not required to be, aggregated. A practice of aggregating wages from only selected related employers should be identified in the plan document

Deemed Roth Elections

The two-year delay in the implementation of the Roth catch-up rule was, in part, due to concerns expressed by plan sponsors and recordkeepers about administering the rule. In an attempt to simplify administration, the final regulations provide that plans can use "deemed" Roth elections for participants who are subject to the mandatory Roth catch-up rule. With a deemed Roth election, a participant subject to the rule is considered to have irrevocably designated any elective deferrals that are catch-up contributions as Roth. A plan using a deemed Roth election must provide the participant an effective opportunity to make a new election that is different than the deemed Roth election. (In most cases, this would mean ceasing elective deferrals altogether for the plan year.)

The final regulations also clarified how deemed Roth elections would work with the two most common plan designs used to administer catch-up contributions. Plans generally ask participants to make either: (1) a single election that applies to both regular and catch-up contributions (the latter applies after the Code Sec. 402(g) limit is reached), also known as a "spillover" design; or (2) separate elections for regular and catch-up contributions. If a plan chooses to use a deemed Roth election, it would function as follows in each plan design:

1. In a "spillover" design, the plan sponsor may choose to have the deemed Roth election apply after either the participant's pre-tax deferrals have reached the Code Sec. 402(g) limit or after the participant's combined pre-tax and Roth deferrals have reached the 402(g) limit.
2. In a separate election design, the participant's separate catch-up contribution election is deemed to be Roth once the 402(g) limit is reached. Importantly, the regulations clarified that if the participant's catch-up contributions are later determined not to be catch-up, they do not need to be recharacterized as pre-tax contributions.

The regulations provide that deemed Roth elections must cease to apply within a reasonable period after an employee ceases to be subject to the mandatory Roth catch-up requirement, e.g., a participant's deemed Roth election should be ineffective for the year after the year in which the participant's FICA income falls below the income threshold for the rule.

If a plan sponsor elects not to implement deemed Roth elections, they will need to require participants subject to this rule (based on prior year FICA income) to make affirmative elections for catch-up contributions to be treated as Roth, or alternatively, not make any catch-up contributions for that plan year.

Methods for Correcting Roth Catch-Up Errors

Errors where pre-tax contributions should have been characterized as Roth are often corrected by distributing the pre-tax contributions to the participant. The regulations provide for two new correction methods to correct errors related to catch-up contributions that should have been designated as Roth but were instead made on a pre-tax basis. These are:

- W-2 correction method: Under this correction method, the erroneous pre-tax catch-up contributions are transferred to the participant's Roth account (adjusted for earnings) under the plan. The participant's Form W-2 for the year of deferral is corrected to include the catch-up contribution amount (making it subject to taxation for that year). The amount included on the W-2 is only the contribution amount and is not adjusted for earnings. This correction method is only available if the participant's W-2 for that year has not yet been filed with the IRS or issued to the participant.

- In-plan Roth rollover method: Under this method, the erroneous pre-tax catch-up contributions (adjusted for earnings) are rolled over to the participant's Roth account under the plan. The rollover would be reported on a Form 1099-R issued to the participant. This correction method is available even if the plan does not otherwise offer an in-plan Roth rollover feature.

To use either of these new correction methods when correcting pre-tax contributions that should have been characterized as Roth, the plan must have implemented a deemed election feature (described above). Plans may use either of the above correction methods but must apply the same correction method for similarly situated participants (e.g., using the W-2 correction method for participants who have not received their W-2s and the in-plan Roth rollover method for participants who have). The regulations also provide that errors do not need to be corrected where the erroneous pre-tax deferrals do not exceed \$250, and where a participant's FICA wages are not determined to exceed the mandatory Roth income threshold (\$145,000, as indexed) until after the correction deadline.

Pre-Limit Roth Contributions

The final regulations make clear that with respect to participants subject to this rule, catch-up contributions are required to be treated as Roth only to the extent that the participant has not previously made Roth elective deferrals. In other words, if a participant makes Roth contributions equal to the catch-up limit for that year (\$7,500 in 2025) before reaching the Code Sec. 402(g) limit, that participant's catch-up contributions are not required to be Roth. However, the specific tax treatment of this participant's catch-up contributions may also depend on whether the plan uses deemed Roth elections and the point at which the plan considers the 402(g) limit to have been reached for this purpose (as described above).

Other Plan Design Issues

The regulations make clear that plan sponsors cannot require all catch-up eligible participants (regardless of income) to make Roth catch-up contributions. Participants under the income threshold must be permitted to choose between pre-tax and Roth treatment for their catch-up contributions. On the other hand, the regulations also provide that if the plan provides the ability to make Roth catch-up contributions for participants earning above the threshold (\$145,000 or more, as indexed), all participants, including those whose earnings are below the threshold, must be offered the ability to make Roth catch-up contributions.

The regulations also provide that participants above the income threshold who participate in a plan that does not offer a Roth deferral feature will be unable to make catch-up contributions. Despite limited relief provided in the final regulations, this situation can also impact the plan's annual nondiscrimination testing. Plan sponsors in this situation should consult with experienced benefits counsel before proceeding.

Impact on Special 403(b) and 457(b) Catch-Up Contributions

Section 403(b) and 457(b) plans sponsored by eligible employers can permit other special catch-up contributions. Participants of 403(b) plans with 15 or more years of service with a qualified organization are permitted to make special catch-up contributions. Similarly, participants of governmental 457(b) plans are permitted to make special catch-up contributions in the last three years before the participant's normal retirement age. The final regulations provide that these special 403(b) and 457(b) catch-up contributions are not required to be Roth, even if the participant's prior year FICA income exceeds the income threshold.

Plan Amendment Deadline

Sponsors will need to amend plan documents implementing the Roth catch-up rule no later than December 31, 2026, for most plans (with later deadlines for collectively bargained or governmental plans). With respect to safe harbor 401(k) plans, the IRS indicated that a midyear plan amendment implementing this feature does not constitute a prohibited midyear change that would jeopardize safe harbor status.

"Super" Catch-Up Contributions

Section 109 of the SECURE Act 2.0 permits (but does not require) plans to provide higher catch-up contribution limits for employees who attain age 60, 61, 62, or 63 during the plan year. This "super" catch-up limit is \$11,250 for 2025 (the higher of \$10,000 or 150%

of the regular catch-up limit of \$7,500). This limit is indexed annually for inflation separately from the regular catch-up limit and remains \$11,250 for 2026, whereas, the regular catch-up limit was increased to \$8,000 for 2026.

The final regulations provide that if a plan sponsored by an employer permits the “super” catch-up limit, then all plans maintained by any employers in the same controlled group must also provide for the “super” catch-up limit. Plans could have begun offering this feature for plan years beginning on or after January 1, 2025. The plan amendment deadline is December 31, 2026 (like the mandatory Roth catch-up requirement). This rule is also subject to a good faith interpretation standard before 2027.

The SECURE Act 2.0 makes significant changes impacting catch-up contributions, a topic of great consequence, particularly to employees closer to retirement. Implementing these features and ensuring they are administered as expected will require significant coordination between plan sponsors and their plan recordkeepers and advisors. Because the IRS did not further delay the effective date of the mandatory Roth catch-up feature (notwithstanding the good faith interpretation standard until 2027), sponsors should begin working with their advisors right away to ensure their plans can successfully implement these features in 2026.

If you have questions related to the SECURE Act 2.0 and catch-up contributions, please do not hesitate to reach out to [Hrishi Shah](#), chair of the Employee Benefits & Executive Compensation Practice.