

Roth Catch-Up Contributions: A Practical Discussion of the Final Regulations

November 19, 2025



Joelle Tavan



Adrine Cargill



Kevin Nolt

Technical Issues

If you experience technical difficulties during this webinar, please call 415-277-8050.

Issues Accessing Materials

If you have any issues accessing materials, please call (415) 277-8039 or email at webinars@truckerhuss.com.

MCLE Credit

This program is eligible for Continuing Legal Education (CLE) credit. Please contact Franchesca Grande at fgrande@truckerhuss.com to receive a CLE certificate

HRCI and SHRM Credit

This program is eligible for HRCI and SHRM credit. Please contact Shannon Oliver at soliver@truckerhuss.com for more information.



Agenda

- **Background and Effective Dates**
- **Determination of Impacted Participants**
- **Implementation Rules**
- **Correction of Roth Catch-up Failures**
- **Other Rules and Considerations**
- **Action Items**

Background and Effective Dates



Why We're Here: The Roth Catch-Up Mandate

- New Roth Catch-Up Mandate for High Earners
 - Beginning January 1, 2026, catch-up contributions for high earners must be made on a Roth basis
 - Added by Section 603 of the SECURE 2.0 Act of 2022
 - Operationally complex provision

Age 50 Catch-Up Contributions

- Introduced by EGTRRA
- Goal to help late-career savers “catch up” for retirement
- Participants age 50 or older could make additional deferrals to a DC plan beyond the Code Section 402(g) limit (\$23,500 in 2025)
- Standard catch-up limit for 2025 is \$7,500 beyond \$23,500 limit, for a total possible contribution of \$31,000
- Option for catch-up contributions to be made as pre-tax or Roth (depending on plan provisions)
- Eligibility did not depend on compensation

New “Super Catch-Up” Contributions

- Section 109 of Secure 2.0 introduced enhanced catch-up limits known as “super catch-up” contributions
- Beginning January 1, 2025, plans have the option to allow employees who attain age 60-63 during a calendar year to make higher catch-up contributions, allowing for savings flexibility during final working years
 - Increased catch-up limit for 2025 is \$11,250 (indexed for inflation) (150% of the current catch-up limit)
 - Total possible contribution is \$34,750 (\$23,500 regular + \$11,250 super catch-up)

Roth Contributions

- Also introduced by EGTRRA
- 401(k), 403(b) and governmental 457(b) plans may permit participants to designate some or all their elective deferrals as Roth contributions
- “Designated Roth contributions” (unlike pre-tax elective deferrals) are currently includible in income
- “Qualified distributions” of designated Roth contributions, including earnings, are excludable from gross income

Congressional Focus on “Rothification”

- Trend toward mandatory Roth options
- Roth provisions generate immediate tax revenue and are used by Congress as a “revenue raiser”
- First appeared in in-plan Roth conversions
- Now expanded via Roth catch-up mandate

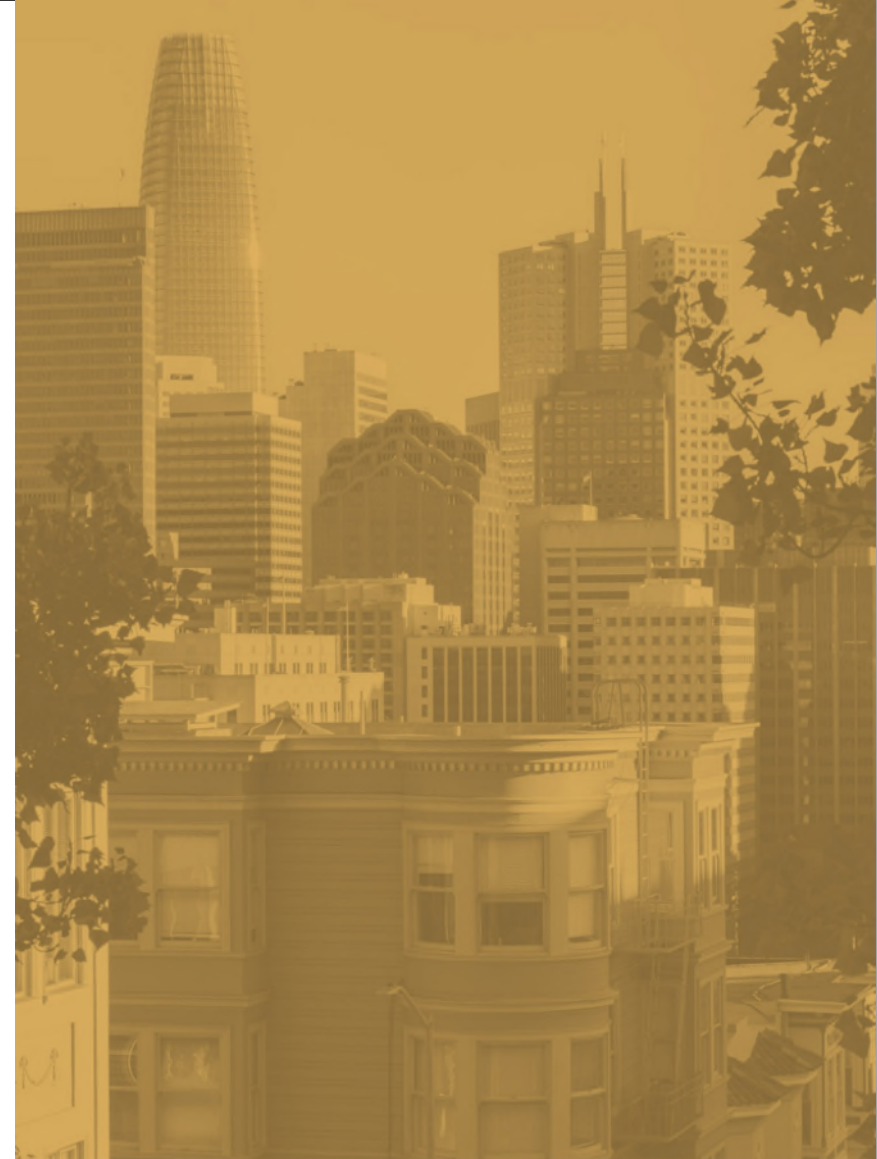
Effective Dates

- Mandate initially effective January 1, 2024
 - Postponed implementation date of January 1, 2026
 - Notice 2023-62 provided a 2-year administrative transition period
- Proposed regulations issued on January 13, 2025
- Final regulations issued on September 15, 2025, and effective November 17, 2025

Applicability Date

- Final regulations generally apply to catch-up contributions made in tax years beginning after December 31, 2026
- They do not extend or modify the 2-year administrative transition period
- Plans that allow eligible participants to make catch-up contributions must begin to comply with the Roth catch-up mandate beginning January 1, 2026
- For years prior to 2027, a reasonable, good-faith interpretation standard applies with respect to the statutory provisions reflected in the final regulations

Determining Impacted Participants



Applicable Plans

- Applies to 401(k), 403(b) and governmental 457(b) plans
- Does not apply to SEP arrangements or SIMPLE IRA plans

Catch-Up Eligible High Earners

- Catch-Up Eligible Participants
 - Employees eligible to make elective deferrals under plan; and
 - Are age 50 or over before the end of their taxable year
- High Earners
 - A high earner subject to this mandate is an employee whose FICA wages from the employer sponsoring the plan exceeded \$145,000 (indexed for cost of living) in the preceding year
 - FICA wages, as reported in Box 3 of the Form W-2 (“Social security wages”)
 - Not Box 5 (“Medicare wages and tips”)
 - Good faith interpretation standard of the final regulations will be met if FICA wages, as reported in Box 5, are used prior to 2027
 - Roth catch-up mandate does not apply to state and local government employees not subject to taxes relating to Social Security coverage

Catch-Up Eligible High Earners (cont'd)

- New Hires
 - New hires with no FICA wages for the preceding year are not subject to the Roth catch-up mandate
- Employed for Partial Year
 - The \$145,000 (as indexed) is not prorated for partial years of employment
 - Example: Employee with an annual salary of \$200,000 but who was hired on July 1 will not be subject to the Roth catch-up mandate in the following year because FICA wages for the lookback year are \$100,000, and less than the threshold
- Partners in Partnerships or other Self-Employed Individuals
 - Not subject to the Roth catch-up mandate if they do not have FICA wages

Determination of Employer Sponsoring the Plan

- Common Law Employer (Default)
 - FICA wages from common law employer, without regard to wages from any other related employer
- Option to Aggregate Controlled Group Members
 - Plan may provide that the common law employer is aggregated with certain related employers
- Option to Aggregate Employers Using a Common Paymaster
 - Plan may provide that the common law employer is aggregated with one or more other specified employers using a common paymaster

High Earner Determination – More than One Employer Sponsoring Plan

- More than One Employer Sponsoring Plan
 - If a participant works for more than one of the employers sponsoring a plan (and plan does not provide for optional aggregation), compensation is not aggregated across employers to determine whether they are a high earner
 - Additionally, even if a participant's wages from one employer exceeded the threshold in the preceding calendar year, deferrals from another employer are required to be Roth only if that other employer's wages also exceeded the threshold

High Earner Determination (cont'd)

- **Example:**

- **Facts:**

- Companies A and B are members of a controlled group and participating employers of same 401(k) plan
- Plan does not provide for optional aggregation
- Participant (who will reach age 55 in 2027) was employed by Company A from 1/1/2026 – 10/31/2026
- Participant transfers and is employed by Company B from 11/1/2026 and for all of 2027
- 2026 FICA wages from Company A: \$160,000
- 2026 FICA wages from Company B: \$35,000
- Participant becomes eligible to participate on 1/1/2027
- All of Participant's deferrals for 2027 are made from compensation paid by Company B

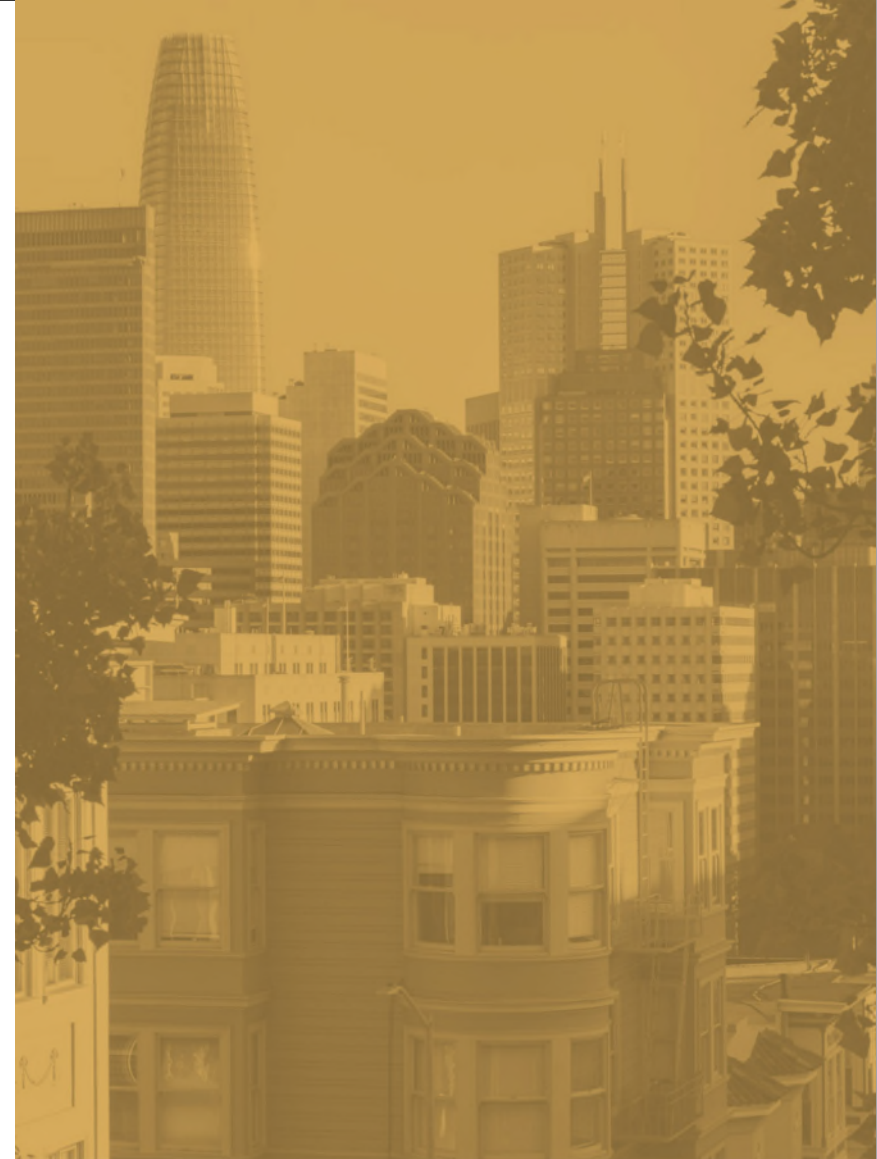
- **Analysis:**

- Companies A and B are common law employers of Participant during different periods in 2026
- Both companies sponsor the plan
- Participant is not required to designate any catch-up contributions under the plan as Roth for 2027 because 2026 FICA wages from Company B did not exceed high-earner threshold

Determination of Employer Sponsoring the Plan - Asset Purchases

- Optional Safe Harbor for Asset Purchases
 - Safe harbor permits reliance on wage information reported on a Form W-2 issued by the successor employer for the calendar year of the asset purchase
 - If successor employer files single Form W-2 (reporting wages from both the predecessor employer and the successor employer), plan may provide that all reported wages are treated as being paid from the successor employer
 - Aggregated wage amount can be used to determine whether employee exceeded the high-earner threshold in the prior year
 - If separate Forms W-2 are filed, plan may provide that the successor employer's reported wages are capped at the Social Security wage base, minus the wages paid by the predecessor employer

Implementation Rules



General Rules

- Code Section 414(v)(7)(A) provides that catch-up contributions made by a high earner are required to be designated Roth contributions
- Code Section 414(v)(7)(B) provides that if a plan has any participant subject to this requirement, then designated Roth catch-up contributions must be available to all catch-up eligible participants

General Rules (cont'd)

- Can an employer design its plan to avoid having to implement the Roth catch-up mandate?
- Other than eliminating catch-up altogether, the only option is to eliminate designated Roth contributions for all participants
 - Result is that high earners will not be able to make catch-up contributions
 - Employer still must track high earners
- Final regulations confirm that the resulting exclusion of high earners from catch-up contributions will not violate the universal availability rule

General Rules (cont'd)

- Final regulations also provide relief from a limited nondiscrimination issue raised by excluding high earners from catch-up contributions
 - Issue is that certain HCEs who are not high earners (i.e., no FICA wages) will be permitted to make catch-up contributions while certain non-HCE who are high earners will be excluded from catch-up contributions
 - Final regulations provide that a plan is deemed to pass Code Section 401(a)(4) nondiscrimination testing if the plan excludes all HCEs who are not high earners from making catch-up contributions
- **A plan cannot require that all catch-up contributions be designated Roth contributions (to avoid tracking high earners)**

Impacted Catch-up Contributions

- Catch-up contributions are triggered when the following limits are reached:
 - Code Section 401(a)(30) limit (\$24,500 for 2026) on elective deferrals for the calendar year
 - Code Section 415(c) limit (\$72,000 for 2026) on total annual additions for the limitation year
 - Average deferral percentage (ADP) test limit for the plan year
 - An employer-provided limit for the plan year
- The Roth catch-up mandate requirement for high earners applies to all catch-up contributions

Counting Designated Roth Made Earlier in the Year

- Catch-up contributions for high earners are required to be designated Roth contributions only if the participant has not already made designated Roth contributions up to the catch-up limit (e.g., \$8,000 for 2026)
- This means a plan may treat any designated Roth contributions as catch-up once a limit is reached in order satisfy the Roth catch-up mandate
- This is optional

Election Process for Roth Contributions

- Affirmative election:
 - The plan may give participants the right to elect that deferrals in excess of an applicable limit will be contributed as designed Roth contributions
- Deemed election:
 - The plan may “deem” that participants have elected that all deferrals in excess of an applicable limit will be contributed as designated Roth contributions

Election Process for Roth Contributions (cont'd)

- Affirmative election process requires the high earner to make an affirmative election for their designated Roth contributions
- Employers generally have considered this option if:
 - They prefer to leave the decision to the participant since there is a tax impact
 - There are payroll or recordkeeper difficulties with the deemed election process
- Affirmative election process requires separate election plans to zero out current catch-up elections before 2026 (and in future years for new high earners)

Election Process for Roth Contributions (cont'd)

- Affirmative election process requires single election/spillover plans to cease all elective deferrals when the participant reaches the 401(a)(30) limit during the calendar year
- Affirmative election process does not involve deeming so the effective opportunity rules in the final regulations do not apply
- What notice rules apply?
- Plans that use the affirmative election process have much more limited correction options

Election Process for Roth Contributions (cont'd)

- Deemed Roth election process is where the plan deems a high earner's existing pre-tax catch-up contributions as Roth catch-up contributions
 - This process was added by the final regulations to simplify the administrative process for employers, especially for ones with spillover plan designs
- There are two options for determining the timing of the deemed Roth election
- If deemed, the elective deferrals must be
 - Treated by the employer as not excludible from employee's gross income
 - Maintained in a Roth separate account

Election Process for Roth Contributions (cont'd)

- If the deemed Roth election process is used:
 - The employee must be provided an effective opportunity to make a new election that is different than the deemed election
 - What is an effective opportunity?
 - What is a different election?
 - The deemed election must cease to apply within a reasonable period of time following the date:
 - The employee ceases to be a high earner
 - An amended W-2 is filed or furnished to the employee indicating that the employee is not subject to the Roth catch-up requirement

Election Process for Roth Contributions (cont'd)

- If the deemed Roth election process is used by a separate election plan then:
 - No need to zero out current separate catch-up elections
 - Regulations confirm that you can deem the separate election contributions as Roth catch-up even though 401(a)(30) limit has not been reached
 - If participant has not contributed up to the 401(a)(30) limit by year-end, the amounts remain Roth

Election Process for Roth Contributions (cont'd)

- If the deemed Roth election process is used by a single election/spillover plan then:
 - No need to cease elective deferrals mid-year when the participant reaches the 401(a)(30) limit
 - There are two options when determining when to apply the deemed Roth election
 - Count pre-tax deferrals only
 - Aggregate pre-tax and designated Roth contributions
- Plans that use the deemed election process have more correction options

Correction of Roth Catch-Up Failures



Correction Methods

- General correction method
 - Distribution of excess amounts correction method
- Two additional correction methods for plans that use the deemed Roth election process
 - Form W-2 correction method
 - In-Plan Roth Rollover correction method

Distribution Method

- Return the excess pre-tax deferrals (adjusted for earnings/losses) to the participant as a taxable distribution reported on a Form 1099-R (with a forfeiture of any related match)
- Can be used by plans whether or not they use the deemed Roth election process

Form W-2 Correction Method

- This method of correction permits the plan to:
 - transfer the catch-up contribution (adjusted for earnings/losses) from the participant's pre-tax account to their designated Roth account; and
 - report the contribution (not adjusted for earnings/losses) as a designated Roth contribution on the participant's Form W-2 for the year of deferral
- Not adjusting the amount reported on the Form W-2 for earnings/losses treats the contribution as if it had been correctly made as a designated Roth contribution
- This method is only available if the Form W-2 for that year has not yet been filed or furnished to the participant

In-Plan Roth Rollover Correction Method

- This method of correction permits the plan to directly roll over the elective deferral (adjusted for earnings/losses) from the participant's pre-tax account to their designated Roth account
- The rollover is reported on the Form 1099-R for the year the rollover is completed
 - The participant includes the entire rollover amount (contribution and earnings) in gross income for the year the rollover occurs, and this amount is not subject to withholding
- A plan may use this correction method even if it does not permit participant-elected in-plan Roth rollovers because the transfer is being made by the plan and not at the election of the participant

Form W-2 and In-Plan Roth Rollover Correction Methods—Special Rules

- A plan may use either of the two new correction methods, but it must apply the same correction method to similarly situated participants
- This is a change from the proposed regulations, which required the plan to apply the same correction method for all participants with elective deferrals in excess of the same applicable limit
- Under the new rules, an employer may apply the Form W-2 correction method for those whose Form W-2s have not been filed, and the in-plan Roth rollover for all others
- The selection of which correction method to use may not be based on the investment returns in the participants' accounts (i.e., a plan may not select the Form W-2 method to avoid reporting the earnings as taxable income)

Form W-2 and In-Plan Roth Rollover Correction Methods—Special Rules (cont'd)

- For errors resulting from a statutory limit violation, a plan must have **practices and procedures** in place that are designed to result in compliance with the Roth catch-up mandate
 - For Code Section 401(a)(30) limit violations, the final regulations clarify that such practices and procedures must include the deemed Roth election process
 - The deemed Roth election process is not a prerequisite to using these two correction methods for errors involving the Code Section 415(c) limit
- Practices and procedures (that are designed to result in compliance with the Roth catch-up mandate) are not required to correct errors involving an employer-provided limit or the ADP limit

Form W-2 and In-Plan Roth Rollover Correction Methods—Deadlines

- The deadline to correct a failure using these correction methods depends on the limit that triggered the redesignation of pre-tax contributions as Roth
- A plan must generally correct failures relating to a statutory limit by the end of the taxable year following the year the contribution was made
 - But must follow other correction deadlines that have tax consequences, if earlier
 - For example, if the deferral is a catch-up contribution because it exceeds the Code Section 401(a)(30) deferral limit, the applicable correction deadline to distribute the deferral is April 15 of the calendar year following the calendar year for which the deferral was made
- Where an employer-provided or ADP limit has been exceeded, the correction must be made by the end of the plan year following the plan year the excess contribution was made

Mid-Year Changes in Prior Year Wages

- Failures attributable to an amended Form W-2
 - If an amended Form W-2 reflecting that the employee's FICA wages **exceed** the high-earner threshold is issued **before** the applicable correction deadline, then the failure must be corrected under one of the permitted correction methods
 - If the amended Form W-2 is issued **after** the correction deadline, no correction is required
 - If an amended Form W-2 reflects that the individual earned **less than** the high-earner threshold, there is no requirement to retroactively redesignate contributions from Roth to pre-tax (or as originally elected)
 - Note that the plan may choose to do so to reflect the participant's intended election
 - This may involve updating records, payroll, and reporting, and reallocating any associated earnings

Corrections—De Minimis Exception

- De Minimis Exception
 - Correction not required if the pre-tax deferrals that should have been Roth do not exceed \$250 (not including earnings)

Other Rules and Considerations



Multiemployer Plans

- In the context of multiemployer plans, the “employer sponsoring the plan” is the common law employer that is the source of the participant’s FICA wages and contributions to the multiemployer plan (not the joint board of trustees)
- Wages from different participating employers are not aggregated for purposes of determining whether the Roth catch-up wage threshold is met (but the plan may provide for aggregation of FICA wages from certain related participating employers)

Dual-Qualified Puerto Rico Plans

- The Roth catch-up mandate is treated as satisfied for a taxable year with respect to participants subject to the Puerto Rico Internal Revenue Code if that taxable year begins before the effective date of an amendment to the Puerto Rico statute to provide designated Roth contribution
- This provides transition relief due to the lack of designated Roth contributions under current Puerto Rico law

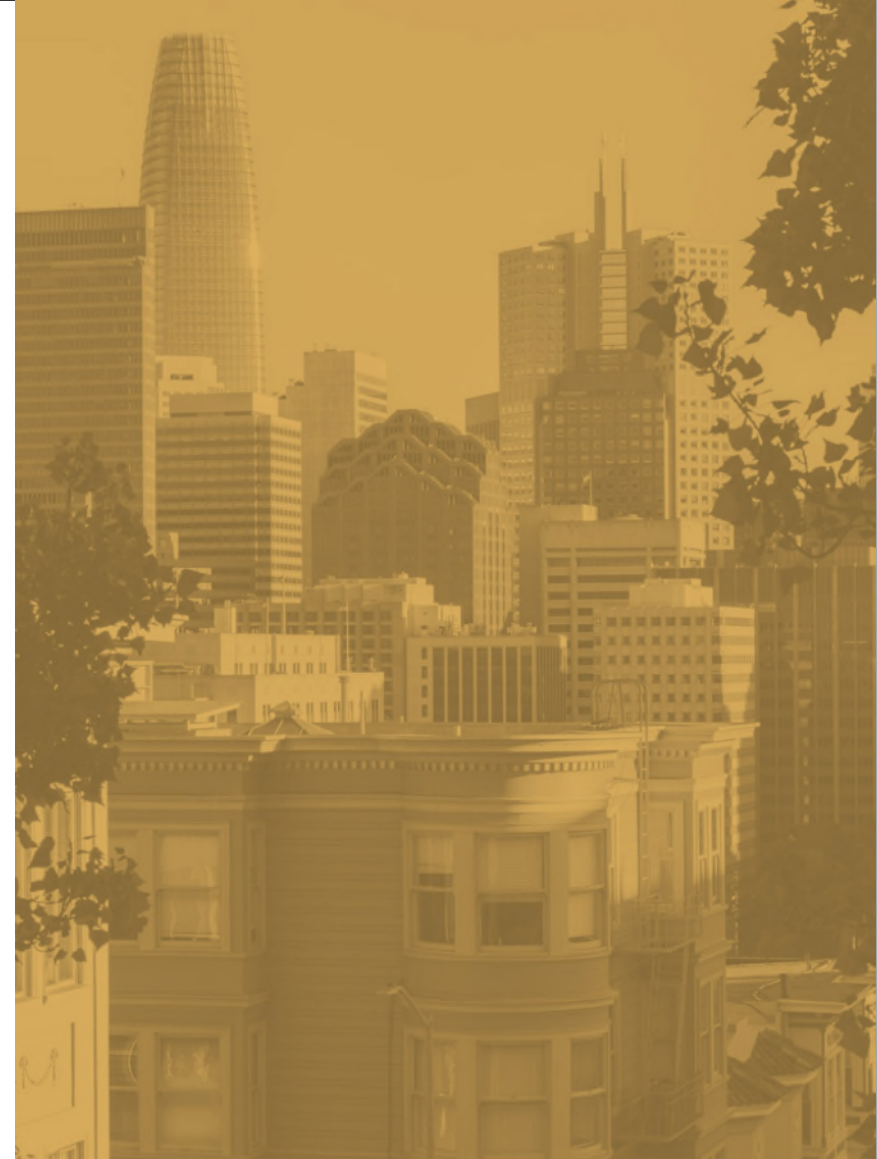
Coordination with Other Limits

- Super Catch-Ups
 - The new Roth catch-up mandate applies to super catch-up contributions (for participants age 60-63)
- Special Catch-Up for 403(b) plans
 - The special 403(b) catch-up may always be pre-tax and only age-50 catch-up amounts are subject to the new Roth catch-up mandate
- Special Catch-Ups for governmental 457(b) plans
 - The special governmental 457(b) catch-up that is allowed during the three taxable years ending before a participant attains normal retirement age under the plan may always be pre-tax and only age-50 catch-up contributions made in excess of that limit are subject to the new Roth catch-up mandate

Safe Harbor 401(k) Plans

- An amendment to a safe harbor 401(k) plan to reflect the new Roth catch-up mandate is not a prohibited mid-year change under IRS Notice 2016-16

Action Items



Action Items

- **Select plan design options**

- Decide whether to aggregate FICA wages across related employers or common paymaster and specify which employers will be included
 - If no aggregation is elected, then the common law employer will apply
- Decide if the deemed Roth election process will be utilized
 - If so, decide whether the deemed Roth election will be triggered once the participant's pre-tax deferrals reach the annual limit, or once the employee's year-to-date aggregate (pre-tax and Roth) deferrals reach the limit
- Document the selected design options (e.g., board or committee resolutions)

- **Plan amendment**

- Amend the plan document to reflect the selected design options by December 31, 2026
 - December 31, 2028 for applicable collectively bargained plans (i.e., a plan maintained pursuant to one or more collective bargaining agreements ratified before December 29, 2022)
 - December 31, 2029 for governmental plans

Action Items (cont'd)

- **Establish and implement policies and procedures**
 - If the deemed Roth election process will be used, establish and implement a process to notify participants of their “effective opportunity” to opt-out or modify contributions once the Code Section 402(g) limit is met
 - Process to maintain a participant’s original election and revert back annually (after close of year or when no longer subject to deemed Roth election)
- **Payroll, data and programming considerations**

Action Items (cont'd)

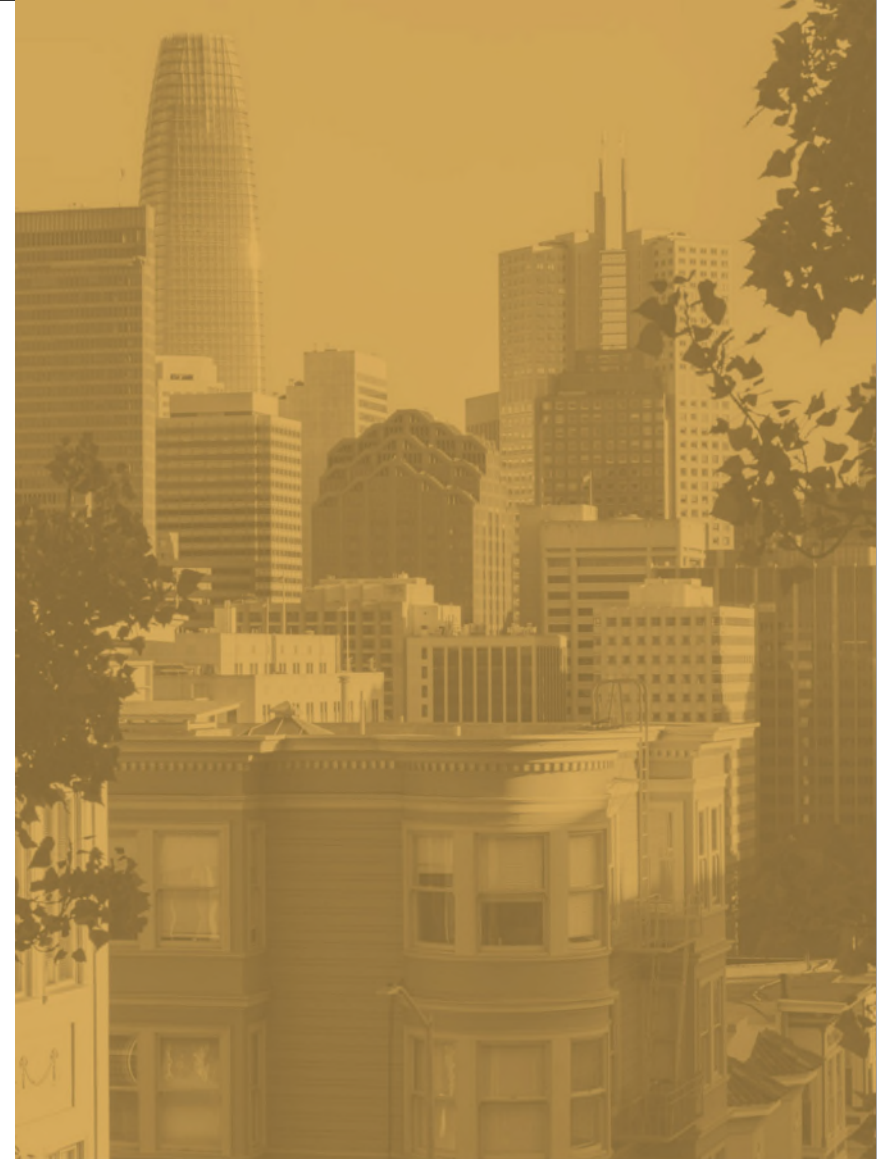
- **Participant communications**

- Create targeted notices for high-earners and update Summary Plan Descriptions to address the new Roth catch-up mandate, and, if applicable, deemed Roth election process and the “effective opportunity” to make an alternative action
- Document distribution of participant communications and notices

- **Audit preparation**

- Regularly communicate with vendors to confirm their capabilities for complying with the new Roth catch-up mandate, including identifying prior-year FICA wages, and if applicable, implementing the deemed Roth election process, and performing corrections via the Form W-2 and/or in-plan Roth rollover correction methods
- Maintain complete records that include the prior-year FICA wages data sources, documentation of employer aggregation and deemed Roth election decisions, participant election history, corrections and calculations (including earnings allocation), and copies of any adjusted Form W-2 or Form 1099-R filings

QUESTIONS AND ANSWERS



Contact

Joelle Tavan, Esq.
jtavan@truckerhuss.com

Adrine A. Cargill, Esq.
acargill@truckerhuss.com

Kevin Nolt, Esq.
knolt@truckerhuss.com

Trucker Huss, APC
135 Main Street
9th Floor
San Francisco, CA
(415) 788-3111

www.truckerhuss.com



Disclaimer

These materials have been prepared by Trucker Huss, APC for informational purposes only and constitute neither legal nor tax advice.

Transmission of the information is not intended to create, and receipt does not constitute, an attorney-client relationship
Anyone viewing this presentation should not act upon this information without first seeking professional counsel.

In response to IRS rules of practice, we hereby inform you that any federal tax advice contained in this writing, unless specifically stated otherwise, is not intended or written to be used, and cannot be used, for the purpose of (1) avoiding tax-related penalties or (2) promoting, marketing or recommending to another party any tax-related transaction(s) or matter(s) addressed herein.

