

To Deem or Not to Deem: Navigating Deemed Roth Catch-Up Elections – A Practical Guide



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The SECURE 2.0 Act of 2022 (SECURE 2.0) introduced significant changes to age 50 catch-up contributions for participants in 401(k), 403(b), and governmental 457(b) plans. Among those changes, Section 603 of SECURE 2.0 mandates that participants age 50 or older who meet a new high-earner threshold must make catch-up contributions on a designated Roth basis (the “Roth Catch-up Rule”). A “high earner” is someone who has FICA wages in the prior year in excess of a specified dollar limit. The Internal Revenue Service (IRS) recently published that that dollar limit is \$150,000 for 2025, and that amount is to be used in determining who is a high earner for 2026. The IRS and the Department of Treasury (the “Treasury”) issued final regulations on September 15, 2025, clarifying many aspects of the Roth Catch-up Rule. These rules are discussed in our October 2, 2025, Special Bulletin titled *[The Roth Catch-Up Regulations are Final: What You Need to Know!](https://www.truckerhuss.com/newsletter/roth-catchup-regulations/)* (<https://www.truckerhuss.com/newsletter/roth-catchup-regulations/>). These final regulations are generally effective for contributions beginning January 1, 2027, though reasonable, good-faith compliance with new rules is required before that date. The Roth Catch-up Rule itself applies to taxable years beginning January 1, 2026.

As employers, payroll providers, recordkeepers and plan administrators prepare for the 2026 Roth Catch-up Rule implementation deadline, a key plan decision is whether to adopt the optional “deemed” Roth election provision. That provision allows employers to automatically treat catch up contributions of high earners as Roth contributions, once they reach the applicable annual elective deferral limit.

The following Frequently Asked Questions address the scope and application of the deemed Roth election provision, including benefits and drawbacks of adopting this plan design provision.

Frequently Asked Questions

1. What is the deemed Roth election provision?

The deemed Roth election provision is an optional plan feature. Once a participant is subject to the Roth Catch-up Rule (i.e., the participant reaches the annual elective deferral limit under Section 401(a)(30) of the Internal Revenue Code (“Code”)), the plan may automatically treat (deem) any additional contributions (i.e., catch-up contributions) as designated Roth contributions. This provision is intended to simplify compliance

with the Roth Catch-up Rule by eliminating the need for participants to affirmatively elect Roth catch-up contributions; this is especially helpful for plans that use a spillover design (explained below) and, thus, do not require a separate elections for catch-up contributions).

Under a spillover structure, the participant elects one deferral percentage or dollar amount. Once the participant reaches the annual Code Section 401(a)(30) limit, any additional elective amounts automatically become catch-up contributions. For high earners subject to the deemed Roth election provision, spillover designs funnel excess amounts into Roth catch-up contributions without requiring an additional election. As a result, the contribution flow is predictable, especially where the plan applies the deemed Roth election based on combined pre-tax and Roth elective deferrals. Applying the deemed Roth election based on pre-tax elective deferrals only may also be advantageous to participants who desire to max-out their pre-tax contributions for the year. However, this may impose more rigorous monitoring of Roth regular deferrals made throughout the year to determine if any year-end corrections of Roth contributions that will be required.

Conversely, under a separate election structure, the participant affirmatively elects a separate amount for regular elective deferrals and a separate amount for catch-up contributions. Because the catch-up is a distinct election, most plans would implement the deemed Roth election provision as of the first payroll of the year for participants who are high earners. The final regulations do not mandate this timing, but the structure creates a natural operational default. A significant advantage of keeping regular deferrals and catch-up contribution elections separate is that it reduces the likelihood of spillover-related errors, because the plan does not need to redirect contributions from pre-tax to Roth mid-year, once a participant hits the applicable deferral threshold. However, deeming based on pre-tax elective deferrals only (as opposed to both pre-tax and Roth elective deferrals) may potentially result in mismatches for participants who rely heavily on pre-tax contributions throughout the year.

Again, adopting a deemed Roth election provision is not required to comply with the Roth Catch-up Rule. Employers may instead:

- Require high earners to make affirmative Roth catch-up contribution elections, or
- Eliminate catch-up or Roth contributions entirely.

Deciding whether to adopt the deemed Roth election provision requires an assessment of whether the operational simplicity gained from the deemed Roth election process outweighs any potential communication, plan amendment and/or system complexities. The ultimate decision hinges on the balance between the plan, payroll, and recordkeeper capabilities, as well as participant's goals.

2. What is required to implement the deemed Roth election provision under the final regulations?

To comply with the final regulations, a plan must satisfy both operational and documentary requirements. Specifically, a plan must:

- Provide each affected participant an "effective opportunity" to make a new election that is different from the deemed election.

The final regulations contemplate that a different election is not limited to adjusting the elective deferral rate or ceasing catch-up contributions entirely. It appears that a participant may also switch from elect Roth catch-up contributions to pre-tax catch-up contributions, if the plan allows it. (When this happens, the plan administrator would have to track Roth catch-up contributions made earlier in the year and adjust or, if

needed, correct year-end contributions to ensure the participant's annual catch-up limit is applied correctly across pre-tax and Roth sources.)

- Be amended to incorporate the deemed Roth election provision.

3. How is an "effective opportunity" provided?

A participant must have a meaningful opportunity under the plan to make an alternative election. The final regulations require participants to receive timely notice of this alternative election, because the deemed Roth election provision may change the tax nature of their contributions without any affirmative action on the part of the participant. Relevant factors include:

- Adequacy and clarity of the notice,
- Timing and duration of the opportunity to opt-out or change elections, and
- Any conditions or restrictions effecting the participant's ability to make an election.

Because the deemed Roth election provision automatically recharacterizes catch-up contributions as Roth, payroll capabilities and participant misunderstanding are key concerns. Employers considering adopting this feature should evaluate:

- Whether their payroll and recordkeeping systems can apply the deemed Roth election in real time,
- Whether communications of the effective opportunity will reach participants early enough to allow them to make informed decisions, and
- How to handle mid-pay-period changes.

Employers who lack adequate payroll–recordkeeper coordination or face recurring communication timing issues might be better served adopting a different administrative process that applies to all participants (i.e., rely on participant-initiated Roth catch-up contribution elections for high earners).

4. When must the plan document be amended to add the deemed Roth election provision?

Under Notice 2024-2, plans generally must be amended by December 31, 2026, to reflect SECURE 2.0. However, collectively bargaining plans generally have until December 31, 2028, and governmental plans have until December 31, 2029. Because adopting the deemed Roth election provision may require alignment of payroll, recordkeeping, and participant communications, employers should evaluate whether they can realistically implement this feature before deciding whether to adopt it.

5. If adopted, when must deemed Roth elections discontinue under the final regulations?

Under the final regulations, a plan must discontinue applying the deemed Roth election within a "reasonable period" after it becomes known that:

- The participant no longer meets the high-earner threshold (e.g., prior-year FICA wages fall below the indexed threshold for the next year); or
- The employer issues (or participant receives) an amended Form W-2 indicating the participant is no longer considered a high earner in the current year.

The final regulations do not define the specific number of days that constitute a "reasonable period," leaving the determination to a facts and circumstances analysis, including how quickly the employer can reasonably update payroll and plan election systems. However, the final regulations clarify that catch-up contributions

already designated as Roth contributions before the end of the reasonable-period window are not required to be recharacterized solely because the participant is later determined not to be a high earner for that year. This avoids the need for corrective recharacterizations that would otherwise arise from mid-year status changes or delayed employer wage corrections.

Employers should consider any operational constraints associated with stopping deemed Roth elections mid-year. Careful coordination between payroll and recordkeeping systems is essential to ensure that:

- Participant statuses are updated quickly upon receipt of new wage information or corrected Forms W-2,
- Payroll contribution coding is promptly adjusted on a prospective basis, as soon as practicable, and
- Associated reporting is consistently applied for the periods before and after the deemed Roth election is discontinued.

6. *What happens to prior catch-up contributions when the deemed Roth election discontinues?*

When a participant's deemed Roth catch-up election discontinues, the change affects only future catch-up contributions. As discussed above, prior catch-up contributions that were deemed as Roth remain Roth, and are not recharacterized. Additionally, these existing Roth amounts retain their original Roth contribution date for purposes of the 5-taxable-year period under Code Section 402A(d)(2)(B). As a result, even if the participant's status later changes, earlier Roth catch-up contributions continue to count toward the participant's Roth holding period.

7. *Does a plan's deferral structure—spillover versus separate election—impact a plan's ability to adopt the deemed Roth election provision?*

No. The final regulations confirm that either plan design—spillover and separate election—may implement the deemed Roth election provision. To facilitate administration, the final regulations permit plans to apply the deemed Roth election by reference to:

- Pre-tax elective deferrals only, or
- Combined pre-tax and Roth elective deferrals.

The final regulations also provide that if a catch-up contribution is later recharacterized at year-end as a regular elective contribution because the participant did not reach the annual Code Section 401(a)(30) limit, or other applicable limit, the contribution is permitted to remain Roth. No recharacterization is required.

8. *How does the deemed Roth election interact with other plan administrative requirements?*

Because the deemed Roth election provision changes how age-50 catch-up contributions are administered for certain participants, it does not operate in a vacuum. It must be coordinated with existing plan administrative features to ensure contributions are correctly designated and applied to the right limits.

Below are the most common plan administrative features that interact with deemed Roth election provision:

Employer Aggregation

- In accordance with the final regulations, some plans may elect to aggregate FICA wages across related employers when determining who is a high earner subject to the Roth Catch-up Rule. If this employer aggregation feature is elected, payroll must combine wage data from multiple employers to identify high

earners before the first catch-up dollar is processed, and the deemed Roth election is applied. If employer aggregation is not elected, each employer must determine its high earners independently, which affects if/when the deemed Roth election applies to its payroll system.

403(b) and 457(b) Special Catch-up Limits

- Special catch-up limits exist for Code Section 403(b) plans (a 15-year rule) and governmental 457(b) plans (a 3-year rule). The final regulations provide that these special limits still remain pre-tax, and are not subject to the Roth Catch-up Rule. Only age-50 catch-up contributions above those limits are subject to the deemed Roth election. As a result, payroll and administrative system must make real-time determinations of whether each catch-up dollar is being applied to a special catch-up limit or the age-50 catch-up limit—because only one of those limits will be subject to the deemed Roth election provision.

Annual Contribution Limits

- In addition to the age 50 catch-up contribution limit, plans must monitor various other annual contribution limits, such as the Code Sections 401(a)(30) and 415(c) limits, employer-imposed limits under the plan, and ADP/ACP testing limits. Depending on when a limit is reached, implementation of the deemed Roth election may differ. For example, annual Code Section 401(a)(30) limit on elective deferrals is applied at the time of each payroll. Once this limit is reached, additional deferrals must be treated as catch-ups contributions, and thus, as Roth for high earners. Conversely, the annual Code Section 415(c) limit on annual additions is applied at the end of the plan year, which may require year-end corrections for both pre-tax and Roth catch-ups.

The deemed Roth election provision is tied to the time catch-up contributions begin. However, as described above, several plan administrative features will determine when that moment is triggered. Because each of these administrative features triggers may be at different points in the plan year and may rely on different data sources and plan provisions, employers must ensure strong coordination between payroll and the recordkeepers. Plans with manual processes or delayed data feeds may find that the deemed Roth election requires additional controls that may not be an ideal feature for their environment.

9. What are the benefits and disadvantages of the deemed Roth election provision?

Benefits:

- Ensures high earners are not permitted to make pre-tax catch-up contributions;
- Reduces the need for high earners to make new catch-up contribution elections once their deferrals have reached the Code Section 401(a)(30) limit;
- Provides tax-free growth benefits for participants; and
- Allows correction of misclassified contributions using IRS-approved correction methods (these correction methods are discussed in the Special Bulletin (<https://www.truckerhuss.com/newsletter/roth-catchup-regulations/>), referenced above).

Disadvantages:

- Participants may become confused or dissatisfied with the “forced” Roth;
- Employee communications must be frequent, clear and timely;
- Payroll and recordkeeping systems must reliably identify high earners and apply the switch consistently;

- Strong operational controls are required to identify mid-year reversals of high-earner status (e.g., amended W-2s); and
- Employers with decentralized or manual payroll systems may find deemed Roth treatment error-prone.

10. How can employers reduce errors and mitigate fiduciary risks if the deemed Roth election provision is adopted?

To reduce the likelihood of misclassifying contributions and to mitigate associated fiduciary exposure, employers should ensure that their plan's administrative systems and vendors can consistently support the following functions:

- Synchronize payroll and recordkeeper data promptly;
- Ensure coding changes occur immediately when annual limits are reached;
- Issue timely notices providing an effective opportunity;
- Process participant elections and opt-outs correctly;
- Monitor mid-year changes and reversals;
- Verify withholding and reporting;
- Conduct annual monitoring to detect and correct errors; and
- Document each step.

The final regulations emphasize that adopting a deemed Roth election provision is optional. Plans may fully comply with the Roth Catch-up Rule without using a deemed election framework. Therefore, employers should adopt the deemed election only if they are confident that their payroll systems, vendors, and administrative processes can support these obligations. If any aspect of the required coordination is uncertain or cannot be executed reliably, employers should reevaluate whether the deemed Roth election design is operationally practical and fiduciarily prudent for the plan participants.

Conclusion

The deemed Roth catch-up election feature is an optional mechanism that can streamline compliance with the Roth Catch-up Rule for employers whose systems support automated contribution tracking and integrated participant communications. It establishes a default treatment that reduces reliance on participant elections, particularly in plans with simple or centralized payroll designs. However, for employers with decentralized payroll processes, complex workforce structures, or limited administrative bandwidth, adopting a deemed Roth feature may increase the potential for misclassifications, mid-year adjustments, or reporting errors.

Ultimately, plan sponsors and other plan fiduciaries must approach the issue of the Roth Catch-up Rule through a process of informed decision making based on administrative feasibility, risk tolerance analysis, and fiduciary capacity, recognizing that compliance with the Roth Catch-up Rule can be achieved without adopting a deemed Roth election provision, if such an approach better aligns with the plan's operational realities.

For guidance on implementation of the new Roth Catch-up Rule tailored to your particular needs and circumstances, please contact the author of this article or your Trucker Huss attorney.

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