The Roth Catch-Up Regulations are Final: What You Need to Know!

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One of the more controversial provisions of SECURE 2.0 is the Roth catch-up contribution rule (the "Roth Catch-up Rule"), due to the administrative burdens and complexities it creates for employers and third party administrators. On September 15, 2025, the Internal Revenue Service (IRS) and the Department of the Treasury (the "Treasury") issued final regulations on the Roth Catch-up Rule, providing needed guidance ahead of the January 1, 2026, implementation date. While the final regulations are generally effective January 1, 2027, the Roth Catch-up Rule must be implemented on January 1, 2026. This article discusses the key provisions of the final regulations and notes any material changes from the proposed regulations.[1]

Background

Section 603 of SECURE 2.0 amended Internal Revenue Code (the "Code") section 414(v) to require certain participants eligible for age-50 catch-up contributions to make their catch-up contributions as designated Roth contributions. The eligible participants subject to this mandate are participants whose FICA wages from the employer sponsoring the plan exceeded $145,000 in the preceding year. The Roth Catch-up Rule applies to 401(k), 403(b) and governmental 457(b) plans.[2]

The Roth Catch-up Rule was effective January 1, 2024. However, due to concerns raised by industry groups (ERISA practitioners and plan service providers), IRS Notice 2023-62 provided a two-year administrative transition period__resulting in an implementation date of January 1, 2026. During the administrative transition period, catch-up contributions made by participants subject to the Roth Catch-up Rule will be treated as satisfying the requirements of Code section 414(v), even if the contributions are not designated Roth contributions. IRS Notice 2023-62 also summarized anticipated guidance from the IRS and the Treasury with respect to the implementation of the rule. The IRS and the Treasury issued proposed regulations on January 13, 2025, which were subject to public comments as part of the administrative rulemaking process, allowing for public participation and feedback before the regulations were finalized.

Key Provisions in the Final Regulations

General Implementation Rules

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The final regulations include provisions that address the overall design and implementation of the Roth Catch-up Rule, particularly with respect to the universal availability requirement for catch-up contributions under Code section 414(v)(4).

The final regulations confirm that if a plan permits any participant subject to the Roth Catch-up Rule to make designated Roth catch-up contributions for a plan year, then all catch-up eligible participants in that plan must be permitted to make catch-up contributions as designated Roth contributions. This means that an employer may not limit Roth catch-up contributions to all or a select group of its high earning participants. In other words, if one high earning participant is permitted to make catch-up contributions (which would be required to be designated Roth contributions), then all catch-up eligible participants must be allowed to elect designated Roth catch-up contributions.

However, the final regulations retain an exception to the universal availability requirement for a plan that provides for catch-up contributions but does not provide for qualified Roth contributions. In this circumstance, the final regulations confirm that the high earning participants are not permitted to make catch-up contributions, but their exclusion will not cause the plan to fail the universal availability requirement. Similarly, the final regulations provide relief for benefits, rights and features testing under Code section 401(a)(4) for this scenario. Specifically, a plan with this design will be deemed to pass testing even if non-highly compensated employees (who are high earning participants under the Roth Catch-up Rule but are not highly compensated employees under Code section 414(q)) are excluded from making catch-up contributions as long as all highly compensated employees, including those with self-employment income above the wage threshold (and who generally are not subject to the Roth Catch-up Rule), are excluded from making catch-up contributions.

In reviewing the Roth Catch-up Rule, employers have questioned whether they could require all of their employees to make catch-up contributions in the form of designated Roth contributions, so that they would not have to track their high earning participants. The IRS received numerous comments in response to the proposed regulations that argued that permitting this design would simplify implementation, reduce Code section 414(v)(7) failures, and in some cases, avoid a perception of unfairness. However, consistent with the proposed regulations, the final regulations do not include a rule permitting a plan to require that all participants' catch-up contributions be designated Roth contributions. The IRS's rationale is that requiring all participants' catch-up contributions to be designated Roth contributions would be inconsistent with the language of Code section 402A(b)(1), which provides that a designated Roth contribution must be elected by an employee.

A key implementation question addressed in the final regulations involves the impact of a participant's designated Roth contributions made prior to reaching the Code section 401(a)(30) limit. The final regulations retain the proposed rule that a catch-up contribution is required to be a designated Roth contribution only to the extent the participant has not previously made elective deferrals that are designated Roth contributions during the taxable year equal to the applicable dollar catch-up limit. This means that a participant who makes non-catch-up designated Roth contributions earlier in the year in an amount that equals or exceeds the catch-up contribution limit for that taxable year is not required to have their catch-up contributions made as designated Roth contributions. However, as discussed further below, the final regulations provide a plan that uses the deemed election process with flexibility in their treatment of prior designated Roth contributions.

Wage Threshold

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Again, it is participants with FICA wages that exceeded $145,000 in the prior year who are subject to the Roth Catch-up Rule. The final regulations confirm that the wages used in determining the $145,000 threshold are FICA wages, as defined in Code section 3121(a) for Social Security tax purposes (reported in Box 3 of the Form W-2). Accordingly, an individual who did not have any FICA wages from the employer sponsoring the plan for the preceding calendar year (e.g., a partner who had only self-employment income or a state or local government employee) is not subject to the Roth Catch-up Rule under the plan in the current year. In response to comments to the proposed regulations, the final regulations clarify that wages for this purpose are not Medicare wages defined in Code section 3101(b) (reported in Box 5 of the Form W-2). The IRS explained that this avoids unintended applicability to certain state and local government employees who might have Medicare-only wages.

In calculating the prior year wages, the proposed regulations restricted the term “employer sponsoring the plan” to the participant’s common law employer contributing to the plan and did not include other entities that are treated as a single employer with a participant’s common law employer under Code section 414(b), (c), (m) or (o). The final regulations add flexibility by providing that an employer is permitted (but is not required) to aggregate an employee’s wages among its affiliates or when it uses a common paymaster. This change is intended to simplify the process for some employers by allowing them to align this wage determination with their general payroll practices. If some but not all affiliated employers will be aggregated, the employers to be aggregated must be identified in the plan document.

The final regulations also provide a safe harbor for successor employers in asset purchases. If the successor employer files a single Form W-2 reporting all wages from both the predecessor employer and the successor employer, all reported wages are treated as being paid from the successor employer and they use this aggregated wage amount to determine whether the employee exceeded the $145,000 threshold in the prior year. If separate Forms W-2 are filed, the successor employer’s reported wages are capped at the Social Security wage base, minus the wages paid by the predecessor employer.

The $145,000 wage threshold is increased for changes in the cost of living. The increase is made at the same time and in the same manner as adjustments under Code section 415(d), except that the base period is the calendar quarter beginning July 1, 2023, and any increase that is not a multiple of $5,000 is rounded to the next lower multiple of $5,000.

Deemed Elections

To simplify administrative burdens for employers while ensuring compliance with the Roth Catch-up Rule, the final regulations permit plans to implement deemed Roth catch-up elections. Under this rule, a plan may provide that a participant subject to the Roth Catch-up Rule is deemed to have irrevocably designated any catch-up contributions as designated Roth contributions.[3] These contributions must be taxed as Roth contributions and maintained in a separate Roth account. The final regulations confirm that this deemed election applies only after the participant reaches the Code section 401(a)(30) limit, which is a change from the proposed regulations that also applied the deemed election to pre-tax deferrals made after a participant reaches the Code section 415(c) limit for the taxable year.

A key decision for employers is whether to implement the deemed election process. In general, employers taking the deemed election route are doing so to avail themselves of the administrative and compliance benefits of following a simplified process. As discussed in more detail below, the deemed election process also provides employers with the opportunity to follow special correction methods that are more favorable to

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participants. Employers who are considering not implementing the deemed election process and opting instead for an affirmative election to make designated Roth catch-up contributions, are generally doing so because they do not want to force their employees to make taxable Roth contributions when they did not elect that tax treatment, or because of administrative constraints with their payroll and HR operating systems.

A plan can provide for the deemed election regardless of whether it utilizes the more common spillover design or requires a separate catch-up election.[4] However, a plan that provides for a deemed election must provide the participant with an effective opportunity to make a new election that is different from the deemed election (e.g., allow the participant to elect to cease making additional deferrals). For a plan that uses a spillover design, the final regulations provide that a plan may deem the spillover amount as Roth contributions without regard to any Roth contributions made earlier in the year. This means that a plan may choose to apply the deemed election either (1) once the employee's year-to-date pre-tax deferrals reach the annual limit, or (2) once the employee's year-to-date aggregate (pre-tax and Roth) deferrals exceed the annual limit. This is a change from the proposed regulations which required a plan to consider Roth contributions made before the participant reached the applicable limit.

For a plan that uses a separate catch-up election, uncertainty existed as to the impact on the Roth treatment if the catch-up amounts are later recharacterized as regular contributions because the participant did not reach the Code section 401(a)(30) limit by year-end. The final regulations confirm that these amounts may maintain their Roth contributions status even if they are later determined not to be catch-up contributions. This is an important clarification because of the administrative and tax complications that would have resulted from requiring a separate election plan to undo the deemed Roth treatment in these circumstances.

As discussed above, use of the deemed Roth election is contingent on the participant having an effective opportunity to change their elections or opt-out of Roth catch-up contributions entirely. In determining whether a participant has such an opportunity, the final regulations reference existing 401(k) regulations that take into account all the relevant facts and circumstances, including the adequacy of notice of the availability of the election, the period of time during which an election may be made, and any other conditions on elections. In addition, the deemed election must cease to apply within a reasonable period after the employee is no longer subject to the Roth catch-up requirement or an amended Form W-2 is filed or furnished to a participant indicating non-applicability. The most common scenario will be when a participant falls below the wage threshold for a year and, thus, is no longer a high earning participant. Under this scenario, their deemed Roth catch-up contributions would need to stop within a reasonable period after the start of the following calendar year. This requires employers to monitor the wage threshold for all participants each year, as some may fall in and out of high earning participant status. The final regulations do not define "reasonable period" but this should be based on a plan's facts and circumstances. Importantly, Roth catch-up contributions made before the end of that reasonable period do not need to be recharacterized as pre-tax contributions.

The final regulations confirm that any deemed Roth catch-up election must be set forth in the plan document. Employers that do not deem but instead require an affirmative election will also need to amend their plan document to terminate existing catch-up elections and require their new catch-up contributions to be designated Roth contributions. Although the final regulations do not address the deadline for a plan amendment, they note that the general deadline under IRS Notice 2024-2 for SECURE 2.0 amendments is December 31, 2026. Unless there is IRS guidance to the contrary, we recommend that employers adopt the requisite plan amendment by December 31, 2026.

Correction Methods for Roth Catch-Up Failures

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The final regulations generally retain the two correction methods introduced in the proposed regulations for instances where a catch-up contribution should have been made as a Roth catch-up contribution but instead was made as a pre-tax catch-up contribution. The correction methods cover elective deferrals exceeding (i) a statutory limit (i.e., the Code section 401(a)(30) limit or Code section 415(c) limit), (ii) an employer-provided limit, or (iii) the Average Deferral Percentage (ADP) limit. The correction requirements differ depending on the underlying reason for the error.

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. (Note: not adjusting the amount reported on the Form W-2 for earnings/losses treats the contribution as if 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. The Treasury and the IRS believe that permitting an employer to amend W-2s to correct the tax treatment would be overly burdensome to the affected participants and the IRS.

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 amount rolled over would be the same as the amount reported on Form 1099-R, and the contribution (adjusted for allocable gain or loss) would be includible in the participant's gross income for the year of the rollover. This correction is implemented by the plan and does not require a voluntary participant election under Code section 402A(c)(4)(E)(i). The final regulations confirm that a plan may utilize 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, and that it is an administrative detail and not a benefit, right, or feature subject to Code section 401(a)(4) nondiscrimination testing.

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 W-2s have not been filed, and the in-plan Roth rollover for all others. The final regulations also provide the election of correction method may not be based on the investment returns earned in participants' accounts. This means that a plan may not select the W-2 method simply to avoid reporting the earnings as taxable income.

The final regulations clarify that the adjustment for earnings or losses for both correction methods must be calculated in accordance with the flexible standard provided under Treasury Regulations section 1.402(g)-1(e)(5).

Also clarified by the final regulations is the application of the 5-taxable-year rule applicable to designated Roth accounts. Under Code section 402A(d)(2)(B), for purposes of determining whether a distribution from a designated Roth account is treated as a qualified distribution, the 5-taxable-year period begins with the first taxable year for which the individual made a designated Roth contribution to the plan. If an amount that is transferred pursuant to the Form W-2 correction method or directly rolled over pursuant to the in-plan Roth rollover correction method is the first contribution to a participant's designated Roth account, then the 5-taxable-year-period begins with the taxable year for which the amount transferred or directly rolled over is

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includible in the participant's gross income. Any amount distributed from the designated Roth account during the 5-year period is subject to the recapture rules of Code section 72(t), which means it is subject to the 10% penalty.

To use these correction methods for an error resulting from a statutory limit, a plan must have practices and procedures in place that are designed to result in compliance with the mandatory Roth catch-up provision. Further, if the statutory limit involved is the Code section 401(a)(30) limit, the final regulations clarify that such practices and procedures must include the deemed Roth catch-up election. This means that a plan that does not use the deemed election process can correct errors resulting from exceeding the Code section 401(a)(30) limit only by returning the erroneous 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). Thus, the final regulations appear to provide that the deemed election process is not a prerequisite to using these correction methods for errors involving the 415(c) limit, an employer-provided limit, or the ADP limit. The reason for this is because, in those instances, the employer is recharacterizing the regular contributions as catch-up to avoid a compliance error and there is no actual participant catch-up election to deem as a Roth election contribution.

The deadline to correct a failure using these correction methods depends on which limit is the basis for the redesignating pre-tax deferrals as catch-up contributions. 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. 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. However, the final regulations clarify that a plan must still comply with correction deadlines that have other tax consequences. 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.

De Minimis Exceptions: Based on comments to the proposed regulations, the final regulations add de minimis exceptions to the correction rules. Under these rules, correction is not required: (1) if the pre-tax deferrals that should have been Roth do not exceed $250, and (2) if the employee's FICA wages are determined to exceed the applicable threshold (e.g., $145,000) on account of adjustments made after the correction deadline. The adjusted W-2 exception is particularly useful, as it allows a plan to avoid making corrections when the employer discovers a payroll error requiring an amended W-2 after the correction deadline.

Other Rules and Considerations

Multiemployer Plans: In the context of multiemployer plans, the "employer sponsoring the plan" for purposes of the Roth Catch-Up Rule is the common law employer that is the source of the participant's FICA wages and contributions to the multiemployer plan (and 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: Special rules apply to dual-qualified plans (plans qualified under both U.S. and Puerto Rico law). The Roth Catch-up Rule 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 contributions. This provides transition relief due to the lack of designated Roth contributions under current Puerto Rico law.

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Special 403(b) Catch-up: For 403(b) plans, catch-up amounts are applied first to the special catch-up rule applicable to participants with 15 years of service with a qualifying employer (e.g., public schools, hospitals and certain other tax exempt entities) and then to the age-50 catch-up. Therefore, the special 403(b) catch-up may always be pre-tax and only age-50 catch-up amounts are subject to the Roth Catch-up Rule.

Special 457(b) Catch-up: Similarly, for governmental 457(b) plans, the special 457(b) catch-up that is allowed during the three taxable years ending before the participants attain 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 Roth Catch-up Rule. (Note: this is not applicable to non-governmental 457(b) plans as they are not permitted to provide for age-50 catch-up contributions, even though they may provide for special catch-up contributions).

Safe Harbor 401(k) Plans: An amendment to a safe harbor 401(k) plan to reflect the Roth Catch-up Rule is not a prohibited mid-year change under IRS Notice 2016-16.

Applicability Date

While the final regulations are effective on November 17, 2025 (60 days after publication in the Federal Register), they generally apply to catch-up contributions made in tax years beginning after December 31, 2026. The final regulations do not extend or modify the administrative transition period. This period ends on December 31, 2025. As a result, except as noted below, all plans that allow eligible participants to make catch-up contributions must begin to comply with the Roth Catch-up Rule beginning January 1, 2026. For years prior to 2027, the final regulations provide that a reasonable, good-faith interpretation standard applies with respect to the statutory provisions reflected in the final regulations. This good faith compliance rule does not give employers the option to not comply with the Roth Catch-up Rule beginning in 2026 but instead provides employers with some compliance relief if they have any administrative issues with implementation in accordance with the final regulations (e.g., with the deemed election process).

For a plan maintained by one or more collective bargaining agreements, the Roth catch-up requirement applies with respect to contributions in the first taxable year after the later of December 31, 2026, or the date on which the last collective bargaining agreement related to the plan that is in effect on December 31, 2025 terminates (determined without regard to any extension of those agreements). The final regulations also provide that a multiemployer plan is deemed to satisfy the mandatory Roth catch-up provision until that applicability date.

In the case of a governmental plan, the Roth catch-up requirement applies with respect to contributions in taxable years beginning after the later of the first taxable year beginning after December 31, 2026, or the first taxable year beginning after the close of the first regular legislative session of the legislative body with the authority to amend the plan that begins after December 31, 2025.

Next Steps

The final regulations provide much anticipated guidance on the Roth Catch-up Rule. While the IRS offered some administrative flexibility, it did not extend the January 1, 2026, implementation date. This means the implementation date is just around the corner and immediate employer action is needed.

Employers must decide whether they will adopt the deemed Roth catch-up election process and, if so, what administrative and payroll changes are required. They will need to work closely with third party administrators and payroll providers to ensure systems can track FICA wages and process Roth catch-up contributions correctly. If employers do not currently offer a qualified Roth contribution program, they must decide whether

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to add one or prevent high earning participants from making catch-up contributions. Furthermore, participant communications that clearly explain the new rule should be provided in advance of January 1, 2026, so that participants are not surprised by the changes and the effective opportunity requirement is met.

If you have any questions, please reach to the author of this article or to the Trucker Huss attorney you normally work with for benefit matters.

[1] The final regulations also address the increased catch-up contribution limit for participant ages 60 to 63. This article focuses on the Roth Catch-up Rule.

[2] The Roth Catch-up Rule does not apply to SEP arrangements or SIMPLE IRA plans.

[3] The final regulations explicitly state that the Roth catch-up requirement applies notwithstanding the general requirements regarding elections to make designated Roth contributions under Code sections 402A(b)(1) and (c)(1).

[4] A spillover design is when a plan provides a single deferral election (pre-tax and/or Roth) and once the participant reaches the Code section 401(a)(30) limit during the year, the single election continues as catch-up contributions (pre-tax and/or Roth). A separate election design is when a plan provides a regular deferral election and a separate catch-up election, and the deductions are taken concurrently.

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