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IRS ISSUES FINAL REGULATIONS ON SECURE 2.0 CATCH-UP CONTRIBUTIONS

The Internal Revenue Service (IRS) has issued final regulations implementing catch-up contribution requirements introduced by the SECURE 2.0 Act of 2022 (SECURE 2.0). These final regulations follow the proposed regulations released in January 2025, as detailed in a previous *Washington Pulse*.

Prior to the passage of SECURE 2.0, employees age 50 and older were generally eligible (plan permitting), to make catch-up contributions—up to $7,500 in 2025—to 401(k), 403(b), or governmental 457(b) plans. These contributions could take the form of either pretax or designated Roth elective deferrals, depending on plan design.

The SECURE 2.0 provisions addressed in the final regulations include the required Roth treatment of catch-up contributions for certain highly paid employees (Section 603), an optional increase for the catch-up limit for employees age 60–63 (Section 109), and increased contribution limits for employees age 50 and older for certain SIMPLE plans sponsored by small employers (Section 117). The final regulations also amend the current regulations to align these SECURE 2.0 provisions with the general rules for catch-up contributions under the applicable Internal Revenue Code sections.

Catch-Up Contributions Required to be Designated Roth Contributions (Sec. 603)

Section 603 of SECURE 2.0 eliminates the option for certain employees to select either pretax or Roth treatment for catch-up contributions. Specifically, employees whose prior-year Federal Insurance Contributions Act (FICA) wages exceed the Roth catch-up wage threshold ($145,000 in 2025, indexed annually) must make all catch-up contributions on a Roth basis. This applies to 401(k), 403(b), and governmental 457(b) plans only—not to SEPs or SIMPLEs. Although the statutory effective date is for taxable years beginning on or after January 1, 2024, the IRS granted a two-year administrative transition period. During the 2024 and 2025 taxable years, plans are able to accept pretax catch-up contributions from affected participants without violating the new requirement.

Determination of “Roth Catch-Up Wage Threshold”

The Roth catch-up wage threshold is based on Social Security wages reported in Box 3 of Form W-2 from the employer sponsoring the plan. To determine whether an employee is subject to mandatory Roth catch-up contributions, FICA wages from the prior taxable year are used. In an employee’s first year of employment, wages are not adjusted or prorated, which means the employee may not be subject to the designated Roth requirement until the next taxable year, depending on actual earnings in the year hired. Starting in 2025, the threshold will be indexed for inflation in $5,000 increments. The first adjustment is expected to apply to wages earned in 2026, which will determine Roth catch-up requirements for contributions made in 2027.

Application of the Universal Availability Rule

According to the final regulations, employers whose plans allow catch-up contributions will not be required to include a Roth deferral provision to retain the catch-up contribution provision. If a plan does not offer a Roth deferral option, employees who are required to make catch-up contributions on a Roth basis cannot make catch-up contributions at all because their catch-up limit will be $0. The universal availability rule does not require employers to offer a Roth deferral provision or to eliminate catch-up contributions altogether.

While this plan design satisfies the universal availability rule, a plan could fail the nondiscriminatory availability of benefits, rights, and features as described in Internal Revenue Code Section (IRC Sec.) 401(a)(4) if at least one highly compensated employee (HCE) is allowed to make pretax catch-up contributions and a non-highly compensated employee (NHCE), who is subject to the Roth catch-up contribution requirement, is not permitted to make a pretax catch-up contribution. For example, this situation may arise when a participant is classified as an HCE due to ownership or attribution of ownership rather than prior year compensation. In such cases, the HCE's previous year FICA wages may fall below the Roth catch-up wage threshold, while an NHCE's prior year FICA wages exceed the threshold, but remain below the IRC Sec. 414(q) limit for determining HCEs.

To avoid this potential nondiscrimination failure, the final regulations create a safe harbor. A plan is deemed to satisfy nondiscrimination testing with regard to the availability of catch-up contributions if the plan does not permit any HCEs with prior year net earnings from self-employment (from the employer sponsoring the plan) above the Roth catch-up wage threshold from making any catch-up contributions. This safe harbor complies with the universal availability requirement, and it may also be used if a plan does not have any participants with net earnings from self-employment for the prior year. The plan document must exclude individuals with net earnings from self-employment from the employer sponsoring the plan from making catch-up contributions to rely on this safe harbor.

"Deemed" Roth Catch-Up Election

The final regulations expand existing Treasury regulations to permit the plan to contain a deemed Roth election. Under a deemed Roth election, an employee who is making pretax elective deferrals and is subject to the Roth catch-up contribution requirement is "deemed" to irrevocably designate all catch-up contributions as Roth contributions if the following criteria are met.

- Deemed Roth catch-up contributions are included in gross compensation.
- Deemed Roth catch-up contributions are maintained in a designated Roth contribution account.

The final regulations also specify that for a plan to implement a deemed Roth election for a participant, the participant must be given an effective opportunity to make a new election that is different than the deemed election. The deemed Roth election must also be explicitly detailed within the plan document.

Determination of Catch-Up Contributions as Roth

If an employee chooses to make catch-up contributions and is subject to the Roth catch-up requirement, any contributions made in excess of a statutory limit (e.g., excess deferral contributions), a lower plan-imposed limit, or the ADP test limit, must generally be treated as a designated Roth contribution. The plan may allow designated Roth elective deferrals that an employee made earlier in the year to be counted as designated Roth catch-up contributions.

Determination of Employer

When determining if an employee's catch-up contributions must be designated Roth contributions, the employee's common law employer (i.e., the entity that pays the employee) is considered the "employer sponsoring the plan." By default, the employer sponsoring the plan does not include other entities that are treated as a single employer (e.g., controlled groups or affiliated service groups), but employers may choose any of the following aggregation options to determine if an employee's FICA wages meet the threshold that would require catch-up contributions to be made on a Roth basis.

- **Employers Using a Common Paymaster.** If an employer uses a common paymaster as described under IRC Sec. 3121(s), the plan can aggregate the employee's common law employer with other employers sharing that paymaster. For this purpose, one or more such employers would be treated as a single entity and the employee's FICA wages from those employers would be aggregated for determining whether an employee's catch-up contributions for the next taxable year must be made as Roth catch-up contributions.
- **Controlled Groups or Affiliated Service Groups.** If a plan sponsor is part of a controlled or affiliated service group, the plan can aggregate the employee's common law employer with other members of the controlled or affiliated service group. By electing this option, one or more employers in the group would be treated as a single entity and the employee's FICA wages from those employers would be combined to determine whether catch-up contributions for the subsequent taxable year must be designated as Roth contributions.
- **Asset Purchase.** For the year in which an asset purchase occurs, the plan of the successor employer (i.e., the buyer or an employer that will be aggregated with the buyer) may treat wages paid by the predecessor employer as part of the successor employer's wages for Roth catch-up contribution purposes. There are two optional aggregation methods available, known as Single Form W-2 or Separate Form W-2. The option an employer elects is dependent on how wages are reported on Form W-2 for the year of the asset purchase and other relevant facts related to the transaction.

Multiemployer Plans and Multiple Employer Plans (MEPs)

Wages are not aggregated between employers (other than those that may be aggregated under the optional rules outlined above) that participate in a multiemployer plan or a MEP when determining if an employee's FICA wages exceed the threshold for requiring catch-up contributions to be designated Roth contributions. Also, catch-up contributions made by an employee are not required to be treated as designated Roth contributions in any other plan that the employee participates in other than any plan(s) sponsored by the employer under which he exceeds the FICA wage limit.

Plans Subject to Puerto Rico Tax Code

For dual-qualified plans governed by both U.S. and Puerto Rico tax codes, the designated Roth catch-up contribution requirement is considered satisfied for any taxable year that begins before an amendment to the Puerto Rico tax code permitting designated Roth contributions takes effect. This applies specifically to employees who participate in an employer plan that is subject to the Puerto Rico Code.

Correction Methods for "Section 414(v)(7) Failures"

The failure to make a catch-up contribution as a designated Roth contribution for employees subject to the Roth catch-up contribution requirement is called a "Section 414(v)(7) failure". The plan must specify the method that will be used to calculate an employee's deferral contributions for the purpose of determining whether any elective deferrals must be treated as designated Roth catch-up contributions. For example, an employer may choose to include only pretax deferrals or to include both pretax and Roth deferrals in the calculation of the applicable limit to determine if any catch-up contributions would be required to be treated as designated Roth contributions. The final regulations state that this type of failure must be corrected using one of the two methods described below (unless a correction is not required due to a permitted exception). These correction methods are available only to employers that have the deemed Roth catch up election in place for their plan.

- **IRS Form W-2 Method.** This method is available only if Form W-2, *Wage and Tax Statement*, has not been provided to the employee. The employer may use this method to correct a Section 414(v)(7) failure by
  - transferring the catch-up contribution (adjusted for earnings) from a pretax deferral account to a designated Roth deferral account in the plan, and
  - reporting the catch-up contribution (not adjusted for earnings) as a designated Roth deferral on Form W-2 for the year the contribution was withheld.
- **In-Plan Roth Rollover (IRR) Method.** The Treasury Department and IRS state that a plan can allow IRR corrections for Section 414(v)(7) failures, even if IRRs are not permitted in the plan document. This corrective method involves
  - directly rolling over a catch-up contribution (adjusted for earnings) from a pretax deferral account to a designated Roth deferral account, and
  - reporting the IRR for the year that the rollover was completed on Form 1099-R, *Distributions from Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.*

In addition, the final regulations clarify that if the first contribution to a participant's designated Roth account is made as a result of a Section 414(v)(7) correction (using either correction method), the five-taxable-year period for qualified Roth distributions will begin with the tax year in which the contribution is included in the participant's gross income. Further, distributions of IRRs made as a result of a correction within the five-taxable-year period beginning on January 1 of the year in which the IRR is made, are subject to the 10 percent early distribution penalty tax under IRC Sec. 72(t), unless an exception applies. This treatment aligns with existing rules for IRRs.

During each taxable year, the employer will be required to apply the same correction method for all similarly situated participants with elective deferrals that exceed the same applicable limit. For example, the IRS Form W-2 method may be used for those participants whose Form W-2s have not yet been issued and the IRR method could be used for all other participants. And the correction method used for any participant any given year cannot be selected based on the participant's investment returns.

- **Correction Exceptions.** The final regulations specify two circumstances under which a Section 414(v)(7) failure does not require correction, as described below.
  - **De minimis Amount.** A correction is not required if the amount that should have been treated as a designated Roth catch-up contribution (without adjustment for earnings) does not exceed $250, (i.e., the amount can remain in the plan as a pretax catch-up contribution.)
  - **Amended Form W-2.** A correction is not required if a plan fails to treat a pretax elective deferral as a designated Roth catch-up contribution solely because an amended Form W-2 was issued for the prior calendar year after the deadline for correcting the applicable Section 414(v)(7) failure. In this case, the

Roth catch-up requirement is considered satisfied, and the deferral is treated as a valid catch-up contribution.

To be eligible to use either of the correction methods for a Section 414(v)(7) failure, a plan must have practices and procedures in place at the time the elective deferral is made that are designed to ensure compliance with the Roth catch-up contribution requirement. An employer will not be considered out of compliance with the requirement to have practices and procedures in place simply because the employer relies on a timely-filed Form W-2 to determine whether a participant is subject to the designated Roth catch-up contribution rule.

Section 414(v)(7) Failure Correction Deadlines

The deadline to correct a Section 414(v)(7) failure depends on which limit has been exceeded. The deadlines are indicated in the table below.

Reason for 414(v)(7) Failure	Deadline to Avoid Tax Penalties	Deadline To Correct the 414(v)(7) Failure
IRC Sec. 401(a)(30) **Exceed Statutory Elective Deferral Limit**	April 15	Last day of the taxable year following the taxable year that the failure occurred
IRC Sec. 415(c) **Exceed Annual Additions Limit**	30 days after the employer's tax return due date, plus extensions for the taxable year with or within which the plan's limitation year ends	Last day of the taxable year following the taxable year that the failure occurred
Exceed Plan-Imposed Limit **(i.e., a lower deferral limit)**	N/A	Last day of the plan year following the plan year that the failure occurred
Deferral Reclassified as **Catch-Up to Pass ADP Test**	2½ months after the close of the plan year 6 months after the close of the plan year if plan has an eligible automatic contribution arrangement (EACA) provision However, until the correction is made, the contribution cannot be excluded from the ADP test	Last day of the plan year following the plan year that the failure occurred

Changes to Catch-Up Limits (Sec. 109 and Sec. 117)

The final regulations amend Treas. Reg. 1.414(v)-1 to align with Sections 109 and 117 of SECURE 2.0. Section 109 provides for an increased catch-up contribution limit for employees who attain ages 60–63 by the end of the calendar year. Section 117 provides for an increased catch-up contribution limit for employees age 50 or older who contribute to certain SIMPLE 401(k) and SIMPLE IRA plans. The final regulations confirm the changes to the catch-up limits available for certain plans as shown below.

	Age 60-63 Catch-Up Limit 2025	Calculation Method
401(k), 403(b), and Governmental 457(b) Plans	$11,250	150% of $7,500 (2024 limit, indexed)
SIMPLE 401(k) and SIMPLE IRA Plans	$5,250	150% of $3,500 (2025 limit, indexed)

	110% Catch-Up Limit 2025	Calculation Method
Certain SIMPLE Plans	$3,850	110% of $3,500 (2024 limit, indexed)

Optional Age 60–63 Catch-Up Provision

The final regulations state that employers are not required to offer the higher catch-up limit for participants age 60–63. Instead, employers can choose to limit catch-up contributions to the same amount as available for other catch-up eligible participant.

Application of the Universal Availability Rule

The universal availability rule requires that if employers permit employees to make catch-up contributions, they must offer all eligible employees the opportunity to make catch-up contributions up to the same dollar amount. The final regulations amend Treas. Reg. 1.414(v)-1 to permit employers the ability to provide employees with the opportunity to make catch-up contributions up to the maximum amount available—even if the dollar amounts are different for each employee. Thus, employers may permit different dollar amounts as limits for catch-up contributions for participants age 60–63 (if an employer elects to permit this provision). In addition, certain specified employee groups, such as collectively bargained employees, may be excluded from catch-up contributions or offered a reduced catch-up opportunity.

Increased Catch-Up Limit for Certain Simple Plans

The increased catch-up limit applies automatically for employers with 25 or fewer employees and upon election by the employer when they have 26-100 employees. The increased limit is applicable solely to the standard SIMPLE catch-up provision and does not extend to the age 60-63 catch-up limit. Consequently, if a participant meets the criteria for the age 60–63 catch-up limit, only that specific limit will be applied because it will always be higher than the 110 percent age 50 catch-up limit.

Applicability Dates

While SECURE 2.0 outlines specific effective dates for each provision—Sections 603, 109, and 117—the IRS has introduced transition relief that shifts the actual compliance timeline. The chart below breaks down the statutory and regulatory applicability dates for each provision. Employers are expected to exercise a reasonable good faith interpretation of the statutory provisions prior to the applicability date of the final regulation.

	Statutory Effective Date	Final Regulations Effective Date
Catch-Up Contributions Required to be Designated Roth Contributions (Sec. 603)	Taxable Years beginning after Dec. 31, 2023* *IRS granted a 2-year transition period (Notice 2023-62) to taxable years beginning after Dec. 31, 2025	Taxable Years beginning after Dec. 31, 2026
Age 60-63 Catch-Up Contributions (Sec. 109)	Taxable Years beginning after Dec. 31, 2024	Taxable Years beginning after Dec. 31, 2026
Increased Catch-Up Contributions to Certain SIMPLE Plans (Sec. 117)	Taxable Years beginning after Dec. 31, 2023	Taxable Years beginning after Dec. 31, 2026

- **Collectively Bargained Plans.** For collectively bargained plans, the final regulations will apply the later of
  - the general effective dates listed in the chart above, or
  - the first taxable year beginning after the date on which the last collective bargaining agreement is in effect on December 31, 2025 (not including extensions) terminates.
- **Multiemployer Collectively Bargained Plan.** If the collectively bargained plan is also a multiemployer plan (i.e., where the union is the plan sponsor), the final regulations will apply the later of
  - the general effective dates listed in the chart above, or
  - the first taxable year beginning after the date on which the last collective bargaining agreement that is in effect on November 17, 2025, terminates (not including extensions).
- **Governmental Plans.** The final regulations applicability date for governmental plans is the later of
  - the general effective dates listed in the chart above, 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.

Navigating Regulatory Change

Staying informed about these updates is essential for all stakeholders as they adapt to the evolving regulatory landscape governing retirement plans. Visit ascensus.com to learn about regulatory updates for SECURE 2.0 provisions related to the retirement industry.