



SECURE 2.0 Overview

IRS publishes final regulations
with more guidance on the
Roth Catch-Up for High
Earner's Provision

The IRS has recently published final regulations that provides additional guidance on the SECURE 2.0 Act Roth Catch-Up Contributions for High Earners provision.

Background

Participants in traditional and safe harbor 401(k) plans are subject to an annual dollar limit on employee contributions – \$23,500 in 2025. In addition, participants who will be at least age 50 at any time during an applicable year can make a “catch-up contribution” up to a specified amount – \$7,500 in 2025 for participants ages 50-59 and 64 and above and \$11,250 for participants ages 60-63. These amounts are adjusted for inflation from time to time. SECURE 2.0 included a provision that requires participants with wages more than \$145,000 (subject to indexing) in the immediately preceding calendar year (“High Earners”) to make catch-up contributions as Roth contributions, beginning in 2024. The IRS, in Notice 2023-62, provided relief extending the Roth catch-up for High Earner’s requirement until 2026. The final regulations did not extend the date.

The proposed and now final regulations clarified the following:

- **Provision Does Not Apply to Sole Proprietors, Partners, Others**
Individuals who do not have wages within the meaning of Code section 3121(a) (i.e., W-2 Box 3) are not subject to the Roth catch-up requirement. For example, sole proprietors, partners would not have FICA wages and therefore are not subject to the Roth catch-up requirement, regardless of their income levels.
- **Salary Deferral Election**
If a plan automatically implements catch-up contributions once the Code section 402(g) limit is reached (often called a “spillover” election), an election to make catch-up contributions on a pre-tax basis can be treated as an election to make catch-up contributions as a Roth for High Earners, eliminating an administrative complication.

- **401(k) Plans Without Roth Provision**

If an employer plan does not allow Roth contributions, then a participant who is subject to the Roth catch-up requirement would be prohibited from making any catch-up contributions under the plan. However, since a plan is not required to allow Roth contributions, participants who are not subject to the Roth catch-up requirement are allowed to make catch-up contributions.

- **Correction Methods for correcting Roth catch-up contributions incorrectly designated as pre-tax deferrals**

The proposed regulations provide for two corrections methods for correcting a pre-tax elective deferral made by a High Earner that exceeds an applicable limit (e.g. a failed non-discrimination test in a Traditional 401(k) Plan) in order to comply with the Roth catch-up requirement.

1. **Form W-2 correction method**

This method is only available if the participant's W-2 for the year of the deferral has not been filed or furnished to the participant. Under this method a plan transfers the pre-tax deferral amounts (adjusted for gain or loss) to the participant's designated Roth account and report the contribution (not adjusted for gain or loss) as a designated Roth contribution on the participant's Form W-2 for the year of the deferral. Under this method. This amount would be includible in the participant's gross income for the year of deferral as if it were made as a Roth contribution. This method would generally not be available in the failed non-discrimination test situation because the W-2 is normally filed and furnished before that determination is made.

2. **In-plan Roth rollover correction method**

With this method, the plan would directly roll over the pre-tax elective deferral amount (adjusted for gain or loss) to the participant's designated Roth account and report the amount

of the in-plan Roth rollover on the Form 1099-R for the year of the rollover. This method is only available if the plan provides for a deemed Roth catch-up election for High-Earners in place for the year of the deferral. The deadlines for using the in-Plan rollover correction method depends on the reason for the excess. More details on the deadlines will be made available closer to the implementation date.

We will continue to communicate with you concerning the Roth Catch-Up provision as well as other SECURE 2.0 provisions that may impact your retirement plan. If you have any questions, please see the www.mrpemp.equitable.com or contact a Retirement Plan Account Manager at 1-800-526-2701.

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