

IRS Issues Relief for Enforcement of Roth Catch-up Contribution Requirement for Highly Paid Employees Under SECURE 2.0 Act

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PRACTICES Employee Benefits and Executive Compensation

Catch-up contributions are additional contributions to 401(k), 403(b), and 457(b) governmental plans in excess of the IRS annual elective deferral limit that can be made by participants aged 50 and older. As we previously reported [here](#) and [here](#), for plan years beginning after Dec. 31, 2023, the SECURE 2.0 Act requires that catch-up contributions for “highly paid employees” (i.e., employees who have prior-year compensation in excess of \$145,000, as indexed for inflation) be designated as Roth contributions and that all other employees be provided with the option to elect to have catch-up contributions be designated as Roth contributions (“**Roth Catch-up Contribution Requirement**”).

The IRS recently issued helpful administrative transition relief under IRS Notice 2023-62 (the “**Notice**”) delaying the enforcement of the Roth Catch-up Contribution Requirement for two years until after Dec. 31, 2025. Under this guidance, catch-up contributions for highly paid employees that are not designated as Roth contributions and plans that do not provide for designated Roth contributions will still be treated as satisfying this requirement under the SECURE 2.0 Act during this two-year period. Therefore, plans that do not currently provide for Roth contributions are not required to be amended to meet the Roth Catch-up Contribution Requirement until Jan. 1, 2026.

In addition to this administrative transition relief, the IRS anticipates issuing the following related guidance to assist plan sponsors, after taking into account any public comments:

- **No prior-year wages.** The portion of the Roth Catch-up Contribution Requirement mandating Roth treatment of catch-up contributions for highly paid employees will not apply to employees who do not receive wages, as determined under the Internal Revenue Code, for the preceding calendar year from the employer sponsoring the plan
- **Prior deferral elections.** Plan sponsors will be permitted to treat an election by a highly paid employee to make catch-up contributions on a pre-tax basis as an election by such employee to make catch-up contributions that are designated Roth contributions.
- **Plans maintained by unrelated employers.** For plans maintained by more than one unrelated employer (including a multiemployer plan), an eligible participant’s wages for the preceding calendar year from one participating employer will not be aggregated with the wages from another participating employer for purposes of determining whether the participant is a highly paid employee.

The Notice is available [here](#).

For further information on the above provisions and the SECURE 2.0 Act in general, please refer to our prior blog posts linked below.

- [IRS Transition Relief for Required Minimum Distributions Under SECURE 2.0 Act](#)
- [IRS Issues Interim Guidance on Expanded EPCRS](#)
- [SECURE 2.0 Act: Focus on Governmental 457\(b\) Plans](#)
- [SECURE 2.0 Act: Focus on 401\(k\) and 403\(b\) Plans – Changes to Plan Corrections Guidance](#)
- [SECURE 2.0 Act: Focus on 401\(k\) and 403\(b\) Plans – Plan Design Changes](#)
- [SECURE 2.0 Act: Focus on 401\(k\) and 403\(b\) Plans Distribution and Withdrawal Changes](#)
- [SECURE 2.0 Act: Focus on Pension Plans](#)
- [SECURE 2.0 Act: Permissive Plan Design Changes](#)
- [SECURE 2.0 Act Increases Age for Required Minimum Distributions](#)
- [SECURE 2.0 Act: Changes to Plan Corrections Guidance](#)
- [SECURE 2.0 is Here! What's Next for Plan Sponsors?](#)
- [Major Retirement Legislation Passed by Congress: SECURE 2.0 Act](#)