

August 2023

IRS Notice 2023-62 Provides Administrative Relief for SECURE 2.0 Roth Age 50+ Catch-up Contributions

Section 603 of SECURE 2.0 Act of 2022 (SECURE 2.0) provides that, if during the prior tax year, a participant in a 401(k), 403(b), or governmental 457(b) plan had Internal Revenue Code (Code) Section 3121(a) wages exceeding \$145,000 (subject to annual IRS cost of living adjustments in \$5,000 increments) from the employer sponsoring that plan, that participant may only make contributions under the Age 50+ Catch-up as Roth contributions, effective for taxable years after 2023.

Having been made aware of concerns in the ability to timely implement this SECURE 2.0 provision, the Internal Revenue Service (IRS) released Notice 2023-62 (Notice) on August 25, 2023. The Notice includes limited guidance concerning the operation of the Roth Age 50+ Catch-up and establishes a two-year administrative transition period. The IRS cautions that the Notice is not intended to provide comprehensive guidance on Section 603.

Specifically, the Notice provides that:

- a participant may make catch-up contributions after 2023, thus addressing an inadvertent SECURE 2.0 drafting error that called into question the ability to make catch-up contributions on or after that date. Congress has already indicated its intent to resolve this provision via future technical correction legislation.
- if an individual makes elective deferrals in the same tax year to two or more plans (regardless of whether the employers sponsoring the plans are related), those elective deferrals are aggregated for purposes of applying the Roth Age 50+ Catch-up limit.
- there will be an administrative transition period for the 2024 and 2025 tax years during which:
 - participants and plans impacted by Section 603 of SECURE 2.0 will be treated as satisfying the Roth Age 50+ Catch-up contribution requirements, even if those catch-up contributions are not designated as Roth contributions, and
 - a 401(k), 403(b), or governmental 457(b) plan that does not provide for designated Roth contributions will be treated as satisfying the Roth Age 50+ Catch-up contribution requirements, even though all catch-up contributions under the plan would continue to be made on a pre-tax basis.

The Treasury Department and the IRS intend to issue additional SECURE 2.0 Section 603 guidance that would:

- clarify that SECURE 2.0 Section 603 does not apply to an individual whose wages are not subject to Code Section 3121(a). The Roth Age 50+ Catch-up provision would not be applicable to income earned by self-employed individuals and to state or local government employees whose services do not fall under the definition of employment under Code Section 3121(b)(7).
- permit a plan administrator and employer to treat a participant who elected to make Age 50+ Catch-up

contributions on a pre-tax basis as having made an election to make such contributions as Roth Age 50+ Catch-up contributions if the participant's prior year's Code Section 3121(a) wages from the employer sponsoring the plan exceeds \$145,000 (subject to annual IRS cost of living adjustments).

- address administrative issues impacting plans sponsored by more than one employer, including multiemployer plans. The IRS expects that a participant's Code Section 3121(a) wages in the prior year from one participating employer would not be aggregated with the wages from another participating employer for purposes of determining whether the \$145,000 threshold (subject to annual IRS cost of living adjustments) had been exceeded. In addition, if a participant's Code Section 3121(a) wages in the prior year exceeded \$145,000 from one participating employer, that participant's catch-up contributions made with another participating employer would not be required to be designated as Roth Age 50+ Catch-up contributions unless the participant's Code Section 3121(a) wages for the preceding calendar year from that other employer also exceed the \$145,000 threshold.

The Treasury Department and the IRS request additional comments about forthcoming guidance under Section 603 of SECURE 2.0 by October 24, 2023.

Voya will continue to monitor these developments.

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