

September 2025

Internal Revenue Service Issues Final Regulations on Mandatory Age 50+ Roth Catch-up and Increased Catch-up Contributions

On September 16, 2025, the Department of the Treasury and the Internal Revenue Service (collectively, “IRS”) issued final regulations (Regulations) addressing the following three provisions of the SECURE 2.0 Act of 2022 (SECURE 2.0) that impact catch-up contributions to employer-sponsored retirement plans:

- Section 603: Mandatory Roth catch-up contribution for certain participants: a 401(k), 403(b), or governmental 457(b) plan participant with FICA wages over \$145,000 (as adjusted for inflation) (the “Roth catch-up wage threshold”) in the prior year from the employer sponsoring the plan can only make Age 50+ catch-up contributions on a Roth basis.
- Section 109: Increased catch-up contribution: a 401(k), 403(b), or governmental 457(b) plan participant or a participant in a SARSEP, SIMPLE IRA, or SIMPLE 401(k) plan who is between ages 60 and 63 by the end of the calendar year may contribute an increased age-based catch-up amount.
- Section 117: Increased contribution limits for SIMPLE IRA and SIMPLE 401(k) plans: contribution limits increase to 110% of the limit that would otherwise apply if the employer sponsoring that plan has no more than 25 employees.

Effective Date: *The Roth Catch-up statutory requirement is mandatory in taxable years beginning after December 31, 2025. The final regulations do not extend or modify the administrative transition period provided under Notice 2023-62, which generally ends on Dec. 31, 2025. Prior to 2027, plans must make a reasonable good faith effort to comply with the Roth Catch-up requirements.*

The Regulations provide for limited exceptions to the applicability date for:

- A governmental plan within the meaning of section 414(d): applicable for taxable years beginning after the *later* of (1) the first taxable year beginning after December 31, 2026, or (2) 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.
- A collectively bargained plan: applicable for taxable years beginning after the *later* of (1) the first taxable year beginning after December 31, 2026, or (2) the first taxable year beginning after the date on which the last collective bargaining agreement related to the plan that is in effect as of December 31, 2025 terminates (without regard to any extensions to those agreements) or, in the case of a multiemployer plan as defined in Internal Revenue Code Section 414(f), the first taxable year beginning after the date on which the last collective bargaining agreement related to the plan that is in effect on November 15, 2025 (60 days after the publication of the Regulations in the *Federal Register*) terminates (without regard to any extensions to those agreements).

Highlights of the Regulations

With respect to mandatory Roth catch-up contributions:

- **Definition of Employer:** For purposes of the mandatory Roth catch-up, the “employer” sponsoring the plan generally means the employee’s common law employer. The Regulations permit aggregation of employers, treating that aggregated employer as a single employer, if:

- the common law employer uses a common paymaster: the plan may aggregate the common law employer with one or more other related employers using that common paymaster.
- if the common law employer is part of a group of employers under common control or an affiliated service group: the plan may aggregate the common law employer with one or more other employers in that group of employers and treat the aggregated employers as a single employer.

The Regulations also provide that all governmental 457(b) plans that are maintained by the same employer are treated as a single plan for purposes of the mandatory Roth catch-up.

- **FICA Wages:** The Regulations confirm that FICA wages for purposes of the Roth catch-up wage threshold are wages subject to Social Security tax (i.e., Box 3 of the Form W-2), not wages subject to Medicare tax (Box 5 of the Form W-2). Since the limit on wages subject to Social Security taxes is significantly higher than the Roth catch-up wage threshold, the IRS does not anticipate that the Social Security wage base limit will ever affect the determination of whether a participant is subject to the Roth catch-up wage threshold.
- **Deemed Elections:** A plan may provide for the implementation of a deemed Roth contribution with respect to a participant who has exceeded the Roth catch-up wage threshold and whose total elective deferrals for the year (including any designated Roth contributions) equal the applicable IRC deferral limit. The plan is not required to recharacterize any designated Roth catch-up contributions made pursuant to the deemed election as pre-tax for the purpose of counting any designated Roth contributions made earlier in the year by the participant toward satisfaction of the Roth catch-up requirement.

If the plan implements a deemed Roth election for participants subject to the mandatory Roth catch-up requirement, the plan must also provide such participants with notice of the opportunity to make a new election that is different than the deemed election. If such a participant makes an affirmative election to make pre-tax catch-up contributions, the plan would need to take into account any Roth contributions that participant made earlier in the year for purposes of determining whether a correction to the catch-up is warranted.

The Regulations clarify that a plan may apply a deemed Roth catch-up election to a participant only if the plan document has a deemed Roth catch-up election provision.

The Regulations note that the deemed election must cease to apply to an employee within a reasonable period of time following the date that:

- that employee ceases to be subject to the mandatory Roth catch-up requirement; or
- an amended Form W-2 is filed or furnished to that employee indicating that the employee is not subject to the mandatory Roth catch-up requirement.

Amounts deemed as Roth catch-up contributions by such an employee before the end of the reasonable period of time do not need to be recharacterized as pre-tax catch-up contributions.

- **Effective Opportunity of Catch-up Contributions:** Generally, each participant must be provided with an effective opportunity to make or change catch-up contribution elections, known as the universal availability requirement. Satisfaction of the effective opportunity requirement is based on all relevant facts and circumstances. The Regulations do not provide additional guidance as to whether certain facts and circumstances would satisfy these effective opportunity requirements, noting that they are outside the scope of the Regulations.

The Regulations clarify that:

- this universal availability rule is satisfied even if the catch-up feature available under the plan differs for collectively bargained and non-collectively bargained employees.
- if a plan of an employer within a controlled group offers the increased catch-up for participants ages 60-63, then all plans sponsored by an employer within that controlled group must offer the same catch-up (unless that feature's availability differs between collectively bargained and non-collectively bargained employees).
- **Safe harbor provision to meet nondiscriminatory benefits, rights, and features:** An employer may have individuals who are highly compensated employees, but whose wages are not subject to FICA (e.g., partners who are considered self-employed). A plan that offers an Age 50+ catch-up feature but does not permit Roth contributions is considered to meet the nondiscriminatory benefits, rights and feature rules by providing that all catch-up eligible participants who are highly compensated employees with net earnings from self-employment for the preceding calendar year above the Roth catch-up wage threshold are not permitted to make catch-up contributions.
- **Plans subject to U.S. and Puerto Rico Tax Laws:** A qualified plan may be subject to the qualification requirements of both Section 401(a) of the Internal Revenue Code and Section 1081.01 of the Puerto Rico Code (dual-qualified plan). However, the Puerto Rico Code currently does not provide for Roth contributions. In light of this, the Regulations provide that the mandatory Roth catch-up contribution and the "universal availability requirement under the Internal Revenue Code are deemed satisfied for a taxable year with respect to a catch-up eligible participant who is subject to Section 1081.01 of the Puerto Rico Code, provided that that taxable year begins before the effective date of any future amendment to the Puerto Rico Code providing for Roth contributions.

The Regulations also address coordination with other catch-ups available under 403(b) and governmental 457(b) plans:

- **Special 457 Catch-up:** If permitted under the 457(b) plan document, a participant may be eligible for the Special 457 Catch-up in the three years prior to their elected normal retirement age, based on their prior deferral contributions to the 457(b) plan. If a participant who is eligible for both the Special 457 Catch-up and the age-based catch-up in the same year cannot use both catch-ups in that year, the participant may use the catch-up that permits the greater contribution amount to the 457(b) plan.

The Regulations clarify that if a governmental 457(b) plan participant:

- is eligible for both the Age 50+ Catch-up and the Special 457 Catch-up in the same year; and
- has met Roth catch-up wage threshold; and
- is entitled to contribute under the Age 50+ Catch-up because it permits the greater catch-up amount; then the plan may permit a portion of the Age 50+ contribution to be made as pre-tax contributions up to the amount of the underutilized amounts calculated under the Special 457 Catch-up.

Example: A governmental 457(b) plan offers Roth contributions and both the Age 50+ Catch-up and the Special 457 Catch-up. Suppose a participant has met the Roth catch-up wage threshold and has \$1,000 underutilized amounts under the Special 457 Catch-up, but can contribute up to \$7,500 under the Age 50+ catch-up. The Regulations provide that, if permitted by the plan, the participant may contribute \$1,000 on a pre-tax basis, but is required to contribute the remaining \$6,500 as Roth catch-up contributions.

- **15 Years of Service Catch-up:** If permitted under the 403(b) plan document, certain 403(b) plan participants may be eligible to contribute under the 15 Years of Service Catch-up based on their prior deferral contributions to the 403(b) plan.

The Regulations confirm that:

- a participant who is eligible for both the 15 Years of Service catch-up and the Age 50+ catch-up in the same year must contribute the maximum available that year under the 15 Years of Service (as pre-tax and/or Roth contributions) before contributing under the Age 50+ catch-up contribution; and
 - a 403(b) participant who between ages 60-63 by year-end and is eligible for the 15 Years of Service Catch-up in that tax year may use both catch-ups in that tax year.
- **Correction of Roth Catch-up Operational Failures:**

If a participant subject to the mandatory Roth catch-up provision makes that catch-up as a pre-tax contribution, the Regulations provide that a plan may generally resolve this defect by making a corrective distribution, adjusting the participant's Form W-2, or correcting via an in-plan Roth conversion. The latter two methods are available only if (1) the plan provides for a deemed Roth catch-up election and (2) the plan sponsor or plan administrator has in place practices and procedures designed to result in compliance with the Internal Revenue Code at the time an elective deferral is made.

The Regulations note that while a plan is not required to apply the same correction for all participants with elective deferrals, the plan must apply the same correction method for similarly situated participants. If a correction is the result of pre-tax contributions exceeding the applicable Internal Revenue Code limit, the deadline to complete all corrective steps required under the Regulations is the last day of the taxable year following the taxable year for which the elective deferral was made. The IRS cautions that an amount is not treated as a catch-up contribution prior to the date that the correction is made, which may have other plan administration and tax consequences.

The Regulations note that if the Form W-2 correction method or the in-plan Roth conversion method results in the first contribution to a participant's designated Roth account, then the 5-taxable-year-period begins with the first day of the taxable year for which that amount is includible in the participant's gross income.

- **Form W-2 Correction Method**

The plan would transfer the pre-tax catch-up contribution, adjusted for gain or loss, to the participant's designated Roth account. The employer would only report the contribution amount (*not* adjusted for gain or loss) as a designated Roth contribution on the participant's Form W-2 for the year of the deferral (i.e., reporting the contribution as if it had been correctly made as a designated Roth contribution). The Form W-2 correction method is available *only if* the participant's Form W-2 for that year has not already been filed or furnished to the participant.

- **In-Plan Roth Conversion Correction Method**

The plan would transact an in-plan Roth conversion of the elective deferral (adjusted for allocable gain or loss) from the participant's pre-tax account to the participant's designated Roth account. The amount of the in-plan Roth rollover would be reported on Form 1099-R for the year of conversion.

The Regulations clarify that this correction method may be made only by a plan and not at the direction of the plan participant. The Regulations note that an in-plan Roth conversion elected by a participant may not be used as a correction of a mandatory Roth catch-up operational failure because that in-plan Roth conversion could consist of contributions other than elective deferrals. As a result, a plan may provide for the use of the in-plan Roth conversion correction method even if the plan does not permit participants to elect in-plan Roth conversions.

Amounts distributed from the in-plan Roth conversion account within the 5-year period beginning on January 1 of the year of the correction remain subject to the 5-year recapture rule and the IRS 10% premature distribution penalty tax (unless an exception applies).

- *Exceptions to Need for Correction*

The Regulations provide that correction is not required if:

- the amount of the pre-tax elective deferral that was required to be a designated Roth contribution does not exceed \$250 (not taking into account attributable earnings and losses); or
- the participant became subject to the mandatory Roth catch-up solely because the participant's FICA wages for the calendar year before the calendar year in which the taxable year begins were not determined to exceed the Roth catch-up wage threshold until after the deadline for correction provided in the Regulations (such as an amended Form W-2 issued after the deadline for correction).

With respect to the increased catch-up for participants ages 60-63 by year-end:

- *Plan Document Provision:* The Regulations confirm that this catch-up is an optional plan feature, but decline to address whether a plan document that incorporates the catch-up contribution limit under Internal Revenue Code Section 414(v) by reference is also considered to have incorporated the increased catch-up for participants ages 60-63 by year-end. The IRS notes its expectation that "a plan's terms will be made clear" as to whether or not an incorporation by reference includes this optional catch-up feature as well.
- *SIMPLE plans and the increased catch-up for SIMPLE participants ages 60-63 by year-end:* SECURE 2.0 provided for a 10% increase in the age 50+ catch-up contribution limit for certain SIMPLE plans. The Regulations clarify that this 10% increase only applies to the age 50+ catch-up contribution limit and not to the increased catch-up contribution for SIMPLE participants between the ages of 60 and 63 by year-end. A SIMPLE plan subject to the 10% contribution limit increase under SECURE 2.0 may instead permit participants between ages 60 and 63 by year-end to contribute under the age 50+ catch-up to maximize amount of their catch-up contribution.

Voya continues to monitor these and all regulatory developments impacting retirement plans.

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