

New Proposed Catch-Up Contribution Regulations Answer Many Questions

Background

Many defined contribution plans are designed to permit participants to take advantage of an increased employee contribution limit starting the year they turn 50.¹ In 2022, SECURE Act 2.0 made two significant changes to the rules governing these additional contribution amounts, commonly called “Catch-Up” contributions. One set of changes generally provided an increased Catch-Up contribution, which could be made available to participants aged 60 through 63 (“Super Catch-Up” contributions). The other set of changes required that participants earning more than a set amount of compensation make Catch-Up contributions on a Roth basis (“Mandatory Roth Catch-Up” contributions).² These changes had broad implications with respect to both plan design and administration, and left many unanswered questions. In fact, Mandatory Roth Catch-Up contribution rules were intended to be enforced starting in 2024, but were granted an administrative transition period of two years due to their inherent complexity. Super Catch-Up contributions are available starting in 2025, and Mandatory Roth Catch-Up contributions will be required starting in 2026.

The Department of the Treasury and the Internal Revenue Service helpfully proposed regulations on January 10, 2025 (the “Proposed Regulations”), which clarify some of the most pressing ambiguities regarding both the Super Catch-Up contributions and the Mandatory Roth Catch-Up contributions. This alert will provide a brief summary of some of the more common questions answered by the Proposed Regulations.

The Proposed Regulations will generally become effective with respect to Mandatory Roth Catch-Up contributions in taxable years starting six months after the publication of the final rule, however, a plan is permitted to apply the rules to contributions in any year starting after December 31, 2023.³ The Proposed Regulations will also generally become effective with respect to Super Catch-Up contributions in taxable years starting six months after the publication of the final rule, however, a plan is permitted to apply the rules to contributions in any year starting after December 31, 2024.

Super Catch-Up Contributions

Does offering Super Catch-Up contributions violate the universal availability requirement for Catch-Up contributions (which requires that all Catch-Up eligible participants be provided with an effective opportunity to make the same amount of Catch-Up contributions)?

¹ Catch-Up contributions are generally an available feature for Internal Revenue Code Section 401(k), 403(b) and governmental 457(b) plans. SIMPLE plans may also offer Catch-Up Contributions, but are outside of the scope of this alert.

² The Mandatory Roth Catch-Up contribution rules do not apply to the special service based catch-up contribution available to certain Internal Revenue Code Section 403(b) plans.

³ Note that different effective dates may apply with respect to certain plans, such as collectively bargained plans and SIMPLE plans.

No, the Proposed Regulations include a carve-out from the universal availability requirements regarding the Super Catch-Up contributions.

Is offering Super Catch-Up contributions mandatory, or may a plan retain the standard Catch-Up limit for all participants?

Offering Super Catch-Up contributions is optional. In the Proposed Regulations, the IRS clarified that a plan may be designed to limit the Catch-Up contribution to the same applicable dollar limit that applies for all Catch-Up eligible participants (i.e., use the age 50 Catch-Up limit for all participants, which for 2025 is \$7,500). Note that because of the universal availability rule, however, it is unclear whether plans within a controlled group may differ on their inclusion of Super Catch-Up contributions.

Mandatory Roth Catch-Up Contributions

Are partners and other workers without FICA wages (such as certain ministers) subject to the Mandatory Roth Catch-Up contribution rules?

No, participants who do not have FICA wages in the prior year from the employer sponsoring the plan are not required to make Mandatory Roth Catch-Up contributions.

Will a newly hired, highly compensated employee be required to make Catch-Up contributions on a Mandatory Roth basis during the first year of employment?

No, even if the employee is highly compensated, if the employee did not have FICA wages from the employer in the prior year, the employee will not be required to make Catch-Up contributions on a Mandatory Roth basis during the first year of employment.

If an employee has a rate of pay that would normally result in FICA wages greater than \$145,000 annually (indexed for inflation), but only works a portion of the year during the first year of employment and earns less than \$145,000 during such first year, must the FICA wages be annualized to reflect what would have been paid for a full year of employment?

No, only the wages actually earned from the employer in the prior year will be considered when determining whether the employee is subject to the Mandatory Catch-Up contribution requirements.

Are wages aggregated across controlled group members when determining a participant's FICA wages for these purposes?

No, only the FICA wages paid by the employer sponsoring the plan are considered, and 'employer' refers only to the employee's common law employer for these purposes (and would not include entities that are treated as a single employer with the common law employer under the 414(b), (c), (m) or (o) controlled group rules). In the context of a multiple employer plan, the FICA wages paid by the participant's common law employer that is the source of contributions to the plan is looked to for these purposes (without aggregating FICA wages from other employers that participate in the same plan or other employers that are treated as a single employer under the controlled group rules).

If Roth Catch-Up contributions are offered to the participants who are required to make Mandatory Roth Catch-Up contributions, must they be offered to all participants eligible to make Catch-Up contributions?

Yes, if Catch-Up contributions are offered on a Roth basis to some eligible participants, they must be offered to all eligible participants.

Can a plan require all Catch-Up Contributions to be made on a Roth basis?

No, Roth contributions must be elected by a participant in lieu of all or a portion of elective deferrals the participant is otherwise eligible to make. In other words, participants who are not subject to the Mandatory Roth Catch-Up requirement (because they did not have FICA wages in the prior year greater than \$145,000, indexed for inflation) cannot be required to make Catch-Up contributions on a Roth basis.

Are plans required to offer Roth contributions?

No, plans are not required to offer Roth contributions. If a plan does not offer Roth contributions and a plan participant is eligible for Catch-Up contributions but subject to the Mandatory Roth Catch-Up contribution rules, that participant will not be permitted to make Catch-Up contributions to the plan. It is important to note that because of this requirement, all plan administrators permitting Catch-Up contributions will be required to monitor FICA wages, whether or not they offer Roth contributions.

Can Roth contributions made prior to the participant exceeding the standard employee contribution limit be counted towards that participant's Mandatory Roth Catch-Up contribution requirement?

Yes, if a participant is subject to the Mandatory Roth Catch-Up contribution rules and makes Roth contributions to the plan prior to exceeding the standard contribution limit for the year, those Roth contributions may be counted as Catch-Up contributions to satisfy all or part of the Roth Catch-Up contribution requirement. In other words, provided the amount of Roth contributions made to the participant's account meets or exceeds the amount of Catch-Up contributions made to the account, the Mandatory Catch-Up rules will generally be satisfied, regardless of the timing of the Roth contributions during the year.

How can plan errors involving Mandatory Roth Catch-Up contributions be corrected?

There are two new methods of correction under the Proposed Regulations, the W-2 Correction Method and the In-Plan Roth Rollover Correction Method. These methods may be used in addition to making a corrective distribution of the ineligible pre-tax Catch-Up contributions, which, depending on the specific facts related to the error, may be available pursuant to current correction procedures. Note that either of the new methods may be used, but the same method must be used for all participants in a plan year exceeding the same applicable limit.

What is the W-2 Correction Method?

This method permits the portion of the participant's pre-tax deferrals that was required to be contributed as Roth Catch-Up Contributions to be transferred to the participant's Roth account (adjusted for earnings and losses) and reported as a designated Roth contribution

on the participant's Form W-2 (without adjustment for earnings and losses) in the year of the deferral. Note that this correction method cannot be used if the Form W-2 has already been filed or furnished to the participant.⁴

What is the In-Plan Roth Rollover Correction Method?

This correction method would directly roll over the elective deferral (adjusted for earnings and losses) from the pre-tax account to the Roth account, and report the rollover on Form 1099-R.

Are all employers eligible to use the new correction methods?

Employers must have procedures in place at the time of the deferral that are designed to result in compliance with the Mandatory Roth Catch-Up rules to be eligible to use these correction methods. As part of this requirement, the plan must provide for a deemed Roth Catch-Up election, which would permit certain ineligible pre-tax contributions to be deemed Roth contributions.⁵ The deemed Roth Catch-Up Contribution provision must permit participants to subsequently change their elections.

Takeaways

Although the Proposed Regulations address Catch-Up contribution changes that have been anticipated for several years, they provide some helpful clarifications, and also serve as an important reminder that, if they haven't already, now is the time for plan sponsors to make decisions regarding Super Catch-Up contributions and to start preparing for Mandatory Roth Catch-Up contributions. At a high-level, plan sponsors may wish to consider the following:

- How the two sets of changes may apply to a plan depends on whether the plan permits Catch-Up contributions and/or contributions on a Roth basis.
- These changes, if applicable, would introduce more complexity to both payroll and plan administration, and would require additional coordination between the two systems, as well as additional dynamic tracking by plan administrators – for example:
 - Plan administrators of plans that permit Catch-Up contributions will be required to monitor FICA wages, whether or not they offer Roth contributions.
 - Plan administrators of plans that permit both Catch-Up contributions and Roth contributions must remember to offer Catch-Up contributions on a Roth basis to all Catch-Up eligible participants if such contributions are offered to some eligible participants, subject to the Mandatory Roth Catch-Up contribution rules.
- If plan administrators would like to take advantage of the two new correction methods for errors involving Mandatory Roth Catch-Up contributions, they must implement procedures that are designed to result in compliance with the Mandatory

⁴ The timing requirement will mean that this correction method may not be available for all Mandatory Roth Catch-Up contribution errors, including those that involve elective deferrals that are catch-up contributions due to exceeding the ADP limit for a calendar year plan.

⁵ Note that these requirements may apply differently to governmental 457(b) plans.

Roth Catch-Up rules at the time of the deferral, including to provide for deemed Roth Catch-Up elections.

This alert is for general informational purposes only and should not be construed as specific legal advice. If you would like more information about this alert, please contact one of the following attorneys or call your regular Patterson contact.

[Douglas L. Tang](#)
[Jessica S. Carter](#)
[JoAnn Kim](#)

212.336.2844
212.336.2885
212.336.2221

dtang@pbwt.com
jcarter@pbwt.com
jokim@pbwt.com

To subscribe to any of our publications, call us at 212.336.2000, email mktg@pbwt.com or sign up on our website, <https://www.pbwt.com/subscribe/>.

This publication may constitute attorney advertising in some jurisdictions.
© 2025 Patterson Belknap Webb & Tyler LLP

Patterson Belknap Webb & Tyler LLP
1133 Avenue of the Americas
New York, NY 10036-6710
212.336.2000
www.pbwt.com