

Law and Policy Group

GRIST

IRS finalizes rules on Roth catch-up mandate for high earners

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IRS [final regulations](#) provide much-needed guidance on the requirement that catch-up contributions by certain high-earning employees participating in 401(k), 403(b) and governmental 457(b) plans may be made only on a Roth basis (referred to in this article as the “Roth mandate”). Enacted as part of the SECURE 2.0 Act of 2022 ([Div. T of Pub. L. No. 117-328](#)), the Roth mandate is effective for tax years starting after 2023. However, compliance with the mandate is on hold until the end of this year pursuant to a two-year administrative transition period announced by IRS. Most plans will need to comply with the mandate starting in 2026. The final regulations don’t apply until 2027, so plans must use a reasonable, good faith interpretation of the statutory provisions until then.

The regulations also address SECURE 2.0’s higher “super catch-up” contribution limit for employees turning ages 60, 61, 62 or 63 during the year. That portion of the regulations will be covered in a future article.

Key differences in final regulations from proposed

The final regulations include a number of clarifications and changes in response to comments on the proposed rules, including:

- **Wages used to determine if mandate applies.** The final regulations confirm that employers can rely on a catch-up eligible employee’s social security [wages](#) reported on box 3 of the Form W-2 to determine if the Roth mandate applies. The regulations also allow — but don’t require — employers to [aggregate](#) wages from one or more related employers in the same controlled or affiliated service group, or with employers using a common paymaster.

- **Deemed Roth elections.** The final regulations include several new provisions on the use of deemed Roth catch-up elections. The regulations give employers flexibility in how to satisfy the requirement that employees have an [opportunity](#) to make an election that's different than their deemed election. The regulations also address when deemed elections must [cease](#) to apply to an employee who is no longer subject to the mandate. Employers that wish to use deemed elections must [amend](#) their plans to provide for them (the amendment deadline for all SECURE 2.0 changes applies).
- **Error corrections.** Several new provisions address the correction of pretax deferrals that should have been Roth catch-up contributions under the mandate. The [deadline](#) for correcting these errors is longer under the final regulations than what IRS initially proposed (though employers may still prefer the proposed regulations' approach). The final regulations also include two narrow [exceptions](#) to the requirement that Roth mandate errors must be corrected.

Roth mandate basics

Section 401(k), 403(b) and governmental 457(b) plans can allow employees to make catch-up contributions above the applicable limit on elective deferrals starting in the year an employee turns age 50 so they can set aside more income as they approach retirement. The applicable limit can be the Internal Revenue Code (IRC) annual limit on elective deferrals (i.e., the Section 402(g) limit for 401(k) and 403(b) plans and the Section 457(e)(15) limit for governmental 457(b) plans), the limit on annual additions under Section 415(c) or a lower limit set by the plan. Elective deferrals exceeding limits imposed by the actual deferral percentage (ADP) test for 401(k) plans can also be recharacterized as catch-up contributions to help the plan pass. Catch-up contributions are subject to an annually indexed dollar amount. For 2025, the regular catch-up limit is \$7,500 and the super catch-up limit is \$11,250 (projected to be \$8,000 and \$12,000, respectively, for 2026).

Before SECURE 2.0, plans could allow all employees to choose whether to make catch-up contributions on a pretax basis or as designated Roth contributions. Roth contributions are made after tax has been withheld. But unlike regular after-tax contributions, when an employee receives a distribution of Roth amounts, the entire distribution — including earnings — is tax-free if certain conditions are met: At least five consecutive years must have passed since the employee's first Roth contribution, and the distribution must occur after the employee attains age 59-1/2, dies or becomes disabled.

Under [SECURE 2.0](#), catch-up contributions may only be made on a Roth basis if an employee's Federal Insurance Contributions Act (FICA) wages in the preceding calendar year from the employer sponsoring the plan exceeded \$145,000 (the threshold is indexed for inflation starting in 2025). SECURE 2.0 also requires plans to offer all other catch-up eligible employees the option to make Roth catch-up contributions if any employee is subject to the Roth mandate during the plan year.

When plans need to comply

Although SECURE 2.0's Roth mandate took effect in 2024, IRS announced an "administrative transition period" in [Notice 2023-62](#) that effectively delayed the mandate for two years. The notice said plans could continue accepting pretax catch-up contributions from all catch-up-eligible employees during the 2024

and 2025 tax years. The final regulations don't extend the administrative transition period (except as noted [below](#) for multiemployer plans), which means plans must start complying with the Roth mandate in 2026. However, the regulations don't apply until the 2027 and later tax years. Plans must apply a reasonable, good-faith interpretation of the statutory provisions until the regulations apply.

Applicability dates for governmental and collectively bargained plans. Governmental and collectively bargained plans may have more time to comply with the regulations. For these plans, the final regulations apply on the following dates, if later than the general applicability date:

- For governmental plans, the first tax year beginning after the close of the first legislative session of the legislative body with authority to amend the plan that begins after Dec. 31, 2025
- For collectively bargained plans, the first tax year beginning after the expiration of the last collective bargaining agreement (CBA) related to the plan that is in effect on Dec. 31, 2025 (determined without extensions)

Extended administrative transition period for multiemployer plans. As noted [above](#), IRS has extended the administrative transition period for multiemployer plans. These plans are deemed to satisfy the mandate's statutory provisions until the first tax year beginning after the last plan-related CBA in effect on Nov. 15, 2025, terminates (determined without extensions). IRS granted this extension due to the unique issues multiemployer plans face in implementing the mandate (e.g., multiemployer plans don't have access to or control over their contributing employers' payroll systems, so they need more complex administrative procedures to comply).

Employees subject to Roth mandate

As noted above, the Roth mandate applies to employees whose preceding-year FICA wages from the employer sponsoring the plan exceeded the applicable threshold. The final regulation includes guidance on how to identify these employees.

Preceding year's FICA wages

SECURE 2.0 set the initial preceding-year FICA wage threshold at \$145,000 (i.e., the amount of 2023 FICA wages used to determine whether an employee would have been subject to the Roth mandate in 2024) and requires annual indexing starting in 2025. In the final rule's preamble, IRS confirmed that employers can rely on an employee's social security wages reported on Box 3 of Form W-2 for the prior year in determining whether the employee is subject to the Roth catch-up mandate.

Threshold indexed starting in 2025. IRS will announce the indexed FICA wage threshold for 2025 in October or November of this year (Mercer projects the limit will rise to \$150,000). This limit will be used to determine if the Roth mandate applies to catch-up-eligible employees in 2026.

Employees with no FICA wages. Employees with no FICA wages in the preceding year aren't subject to the Roth mandate in the current year. This could include, for example, a partner with only self-

employment income, a worker whose pay is subject to the railroad retirement tax or certain state or local government employees.

No proration of threshold in the year of hire. The Roth mandate's FICA wage threshold isn't prorated for an employee's year of hire. For example, if an employee is hired on Oct. 1, 2025, the employee won't be subject to the Roth mandate in 2026 unless the employee's FICA wages for the last three months of 2025 exceed the full 2025 threshold.

Employer sponsoring the plan

An employee is subject to the mandate if their wages from the "employer sponsoring the plan" exceed the threshold, but SECURE 2.0 doesn't define that phrase. The final rule provides that the employer sponsoring the plan is the employee's common law employer. For this purpose, an employer is generally considered a common law employer if the employer has the right to control both what work an employee does and how the employee does it.

Aggregation of wages from related employers not required. Under the final regulation, the employer sponsoring the plan generally doesn't include other employers in the common law employer's controlled group. This is true even if related employers are participating in the same plan. To illustrate this point, an example explains that if an employee transferred from one employer in the controlled group to another during the preceding year, the Roth mandate would apply in the current year only if the employee's preceding-year FICA wages with the current employer exceeded the mandate's threshold. The employee's preceding-year FICA wages with the other related employer would have no bearing on whether the mandate applies under the current employer.

The same analysis applies to employees participating in a multiple employer plan, including a pooled employer plan (PEP). If an employee worked for two participating employers in the preceding year, the FICA wages earned from the two employers in the preceding year wouldn't be aggregated to determine if the Roth mandate applied in the current year.

Permissible aggregation of wages from related employers. In response to comments, the final rule allows plans to provide for the aggregation of wages from employers that are:

- Members of a controlled group of corporations or an affiliated service group
- Using a common paymaster

The final rule explains that the plan can provide for the aggregation of selected employers meeting these criteria by listing those employers in the plan document. If a plan does so, an employee's wages from the common law employer and other employers that are aggregated with the common law employer are treated as wages from the employer sponsoring the plan.

Employees not subject to Roth mandate

SECURE 2.0 requires giving all employees the option to designate their catch-up contributions as Roth contributions if any employee is subject to the Roth mandate. The group that must have a Roth catch-up option includes employees whose preceding-year FICA wages were below the mandate's threshold, including employees who had no FICA wages. (However, as explained [below](#), this rule applies only if a plan offers a Roth program.)

Plans can't limit everyone to Roth catch-ups. Plans can't require all catch-up eligible employees to make catch-up contributions on a Roth basis, regardless of their prior-year FICA wages. In the preamble, IRS explains that this would be inconsistent with the [IRC's Roth rules](#), which say an employee must be permitted to make a pretax deferral and designate that deferral as a Roth contribution. SECURE 2.0 created an exception to these rules for the Roth mandate, but it applies only to employees that are subject to the mandate.

Deemed Roth catch-up elections

The regulations permit — but don't require — 401(k) and 403(b) plans to provide that employees subject to the Roth mandate are deemed to have irrevocably designated any catch-up contributions as Roth contributions. Deemed elections may be used regardless of how a plan designates elective deferrals as catch-up contributions — i.e., some plans require employees to make an affirmative election to designate deferrals as catch-up contributions, while others use a “spillover design” that automatically treats elective deferrals as catch-up contributions whenever an employee's deferrals exceed the applicable IRC or plan limit.

Plan document requirement. Employers relying on deemed elections must amend their plan documents to provide for them. The preamble to the final regulation confirms that this amendment is subject to the same plan amendment deadline as all other SECURE 2.0 changes — Dec. 31, 2026, except collectively bargained and governmental plans may have more time (see [After empty 2023 RA List, IRS delays amendment deadlines for new laws](#) (Dec. 21, 2023)).

Governmental 457(b) plans. The final regulations don't specifically amend the regulations under Section 457(b) to allow deemed Roth catch-up elections. This is because the 457(b) regulations currently don't reflect that governmental 457(b) plans can accept Roth contributions (IRS [proposed regulations](#) in 2016 to address Roth contributions under governmental 457(b) plans but hasn't finalized those regulations). The preamble to the final regulations suggests that governmental 457(b) plans can still use deemed elections, and in a footnote, IRS says it will address deemed elections for these plans in future regulations.

Option to make different election

Like the proposed regulation, the final rule says plans relying on deemed elections must give employees subject to the Roth mandate “an effective opportunity...to make a new election that is different than the deemed election.” The regulation doesn't say what steps employers need to take to satisfy this

requirement. Instead, whether an employee has an effective opportunity to make a different election is determined under a facts-and-circumstances test. One commenter on the proposed regulation asked if this provision creates an employee notice requirement. In the preamble to the final regulation, IRS declines to answer the question, saying instead that the determination of whether certain facts and circumstances satisfy the requirement is outside the scope of the regulation.

What options must employees have? The regulation is silent on what choices employees must have when making a different election; however, the preamble suggests employees must be able to choose either to stop contributing or make pretax contributions. Making pretax catch-up contributions may be possible for some high-earning employees because the regulations allow (but don't require) a plan to count toward the mandate any Roth contributions made by the employee before reaching the applicable limit (see [Any Roth contributions can satisfy the mandate](#) below). If an employee elects to make pretax contributions, the plan must determine if the pretax contributions were permissible, and to the extent they weren't, correct the violation by distributing the contributions to the employee or using one of the correction methods discussed [below](#).

Deemed elections that cease to apply

In response to comments on the proposed regulations, the final rule addresses when deemed elections must cease to apply to employees who are no longer subject to the Roth mandate. A deemed election must cease to apply "within a reasonable period of time" after:

- The employee ceases being subject to the Roth mandate (e.g., because the employee transfers to another participating employer from whom the employee received no FICA wages in the preceding year, and the plan doesn't provide for aggregation), or
- An amended Form W-2 is provided to the employee for the preceding year indicating the employee's FICA wages didn't exceed the mandate's threshold

Roth catch-up contributions made during this period needn't be recharacterized as pretax contributions. However, the regulations are silent on what's considered a reasonable period of time after the mandate ceases to apply.

Error corrections

The regulations include two methods that plans can use to correct pretax deferrals exceeding the applicable limit by an employee who is subject to the Roth mandate: the Form W-2 correction method and the in-plan Roth rollover correction method. Plans that are unable to use either method would have to distribute the erroneous pretax deferrals (the exact procedure for doing so would depend on which applicable limit the pretax deferrals exceed). The final regulations also include two narrow exceptions to the requirement to correct Roth mandate errors.

Form W-2 correction method

The Form W-2 correction method involves transferring the contributions, adjusted for earnings or losses (calculated as described [below](#)), from the employee's pretax account to the Roth account. The employer reports the contributions, unadjusted for earnings or losses, on the employee's Form W-2 for the deferral year. The Form W-2 correction method is available only if the employer hasn't yet issued the employee's Form W-2 (which is due by Jan. 31 following the year of deferral).

A commenter on the proposed regulation requested that plans be allowed to use the Form W-2 correction method if the employer reflects the transfer from the pretax to the Roth account on an amended Form W-2 for the deferral year. IRS currently [allows](#) plans to take this approach when correcting failures to implement an employee's affirmative election to designate elective deferrals as Roth contributions. However, the final regulations do not allow this same flexibility when correcting pretax contributions that should have been Roth contributions under the mandate. In the preamble, IRS explains it didn't incorporate the commenter's suggestion because allowing this would unnecessarily burden employees with having to file amended tax returns and IRS with having to process those returns.

Form W-2 method unavailable in some cases. Requiring the correction to occur before the employer issues the Form W-2 limits the availability of the Form W-2 correction method. The method will generally be unavailable to help calendar-year plans pass the ADP test by recharacterizing pretax elective deferrals as Roth catch-up contributions. This is because ADP testing for a calendar year plan is typically completed after the deadline for issuing the Form W-2. The preamble to the final regulation also acknowledges that multiemployer plans generally won't be able to use the method because multiemployer plans lack access to and control over the participating employers' payroll systems.

In-plan Roth rollover correction method

Under the in-plan Roth rollover method, a plan would directly roll over the pretax deferral that should have been made as a Roth catch-up contribution, adjusted for gains or losses (calculated as described [below](#)), to the employee's Roth account and report the full rollover amount on Form 1099-R for the year of the rollover. The final regulations clarify that a plan can use the in-plan Roth rollover correction method even if the plan doesn't offer in-plan Roth rollovers to employees, and employees don't have to elect or agree to a corrective rollover.

Correction deadlines

Under the final regulations, the deadline to correct a Roth mandate error and avoid a plan qualification failure depends on whether the elective deferral that should have been made on a Roth basis is a catch-up contribution because it exceeded a statutory or other limit.

- If the deferral exceeded a statutory limit (e.g., the annual limit on elective deferrals under IRC Section 402(g) or the limit on annual additions under Section 415(c)), the deadline to correct is the last day of the tax year following the tax year in which the error occurred.

- If the deferral violated a plan limit or the ADP limit, the deadline is the last day of the plan year following the plan year in which the error occurred.

In the preamble, IRS suggests this provides a simpler approach than the proposed regulations, which would have required correction of a Roth mandate error by the applicable deadline to correct a violation of the limit the elective deferral exceeded.

Employers may prefer the proposed regulations' approach. IRS decided to give plans more time to correct Roth mandate errors in response to comments that the approach under the proposed regulations was too complicated. However, employers may still prefer to follow the approach in the proposed regulations. The preamble to the final regulations explains that if an employee defers in excess of a limit and the plan fails to take all steps necessary to correct the violation — including applying one of the Roth mandate correction methods to the excess deferrals that are recharacterized as catch-up contributions — the usual consequences for violating the limit will apply.

To avoid these consequences, plans would still need to correct by the applicable deadline for each type of failure. Those deadlines are:

- For deferrals treated as catch-up contributions because they exceed the annual limit on elective deferrals, the deadline would be April 15 of the following calendar year.
- For deferrals treated as catch-up contributions because they exceed the limit on annual additions under IRC Section 415, the deadline would be the last day to allocate amounts to the limitation year for which the elective deferral was made.
- For pretax elective deferrals recharacterized as Roth catch-up contributions to help a plan pass ADP testing and for deferrals exceeding a plan limit, the deadline would be two-and-a-half-months after the end of the plan year (or six months after the end of the plan year if the plan includes an eligible automatic contribution arrangement).

For example, if a catch-up eligible employee defers in excess of the annual limit on elective deferrals under IRC Section 402(g), and the plan doesn't recharacterize the excess pretax deferrals as catch-up contributions and complete the Roth mandate correction by April 15 of the following tax year, the employee will be taxed on the excess in the year of deferral and then again when the amounts are distributed to the employee. The violation of the Section 402(g) limit is also a qualification error. If the correction is completed after the April 15 deadline, the plan must file a Voluntary Correction Program application under the IRS's Employee Plans Compliance Resolution System to avoid disqualification.

Correction not required in certain cases

The final regulations relieve plans from correcting Roth mandate errors in two situations. In both cases, the Roth mandate failure is disregarded, and the elective deferral is treated as a catch-up contribution.

De minimis amounts. A plan is not required to correct a Roth mandate error "if the amount of the pretax deferral that was required to be a designated Roth contribution does not exceed \$250." (The dollar

threshold disregards earnings and losses.) The regulations arguably can be read to apply this *de minimis* rule on a deferral-by-deferral basis, rather relieving a plan from correction only if all of an employee's pretax deferrals that should have been Roth catch-up contributions in the aggregate don't exceed \$250. Clarification from IRS would be helpful. Employers considering applying the *de minimis* rule on a deferral-by-deferral basis may want to consult with legal counsel.

FICA-wage determination occurs after correction deadline. A plan is also relieved from correcting a Roth mandate error when the employee's FICA wages for the preceding year were determined to exceed the mandate's threshold after the deadline for correcting the Roth mandate error discussed [above](#).

Other correction issues

The regulations address several other issues related to correcting pretax contributions that should have been made as Roth catch-up contributions.

Consistency requirement. Plans generally can use either correction method (to the extent available). However, the final regulations require plans to use the same correction method for similarly situated employees. (This is a more flexible standard than the proposed regulations, which would have required plans to use the same method in a given plan year for all pretax elective deferrals made exceeding the same limit.) The preamble notes, as an example, that a plan can satisfy this requirement by using the Form W-2 correction method for all employees who haven't received their W-2 and the in-plan Roth rollover method for those that have.

Practices and procedures required for catch-up contributions exceeding statutory limits. Under the final regulations, the plan sponsor or plan administrator must have practices and procedures in place in order for the plan to use either of the above correction methods to fix pretax deferrals exceeding a statutory limit (this isn't required to correct an ADP test or plan limit error). This includes using deemed Roth elections to automatically treat deferrals exceeding a statutory limit as Roth catch-up contributions and providing for deemed elections in the plan document. If a plan doesn't use deemed elections, its only correction option is to distribute deferrals exceeding the statutory limit.

Calculating earnings and losses. Both the Form W-2 correction method and in-plan Roth rollover correction method require deferrals transferred to the Roth account be adjusted for earnings and losses. The final regulations clarify that the adjustment must be calculated in the same manner that applies for determining income and losses on deferrals exceeding the annual limit under Treas. Reg. § [1.402\(g\)-1\(e\)\(5\)](#).

Distribution before correction. If a participant takes a distribution before the plan corrects a Roth mandate error, the preamble to the final regulations says the distribution "would satisfy the qualification requirements without the need for additional rules in these final regulations." However, the portion of the distribution attributable to the pretax catch-up contributions that should have been Roth would not be an eligible rollover distribution.

Five-year Roth distribution period. The preamble to the final regulations explains that, if an employee's first Roth contribution to the plan is made pursuant to one of the correction methods discussed above, the first year in the five-year Roth distribution period (discussed under [Roth mandate basics](#) above) is the year in which the contribution is considered made to the plan on a Roth basis. Under the Form W-2 correction method, this would be the year in which the pretax deferral was made. Under the in-plan Roth rollover method, the first year would be the year in which the transfer to the Roth account occurs.

Any Roth contributions can satisfy the mandate

The final regulations allow plans to count any Roth contributions made by the employee during the year toward the Roth mandate, even those made before the employee has reached an applicable limit. For example, if an employee makes Roth contributions before reaching the IRC Section 402(g) annual limit on elective deferrals, the plan can count those Roth contributions toward the mandate and allow the employee to make pretax catch-up contributions after reaching the 402(g) limit.

Treatment is optional. Plans are not required to count previously made Roth contributions when applying the mandate. A plan may provide that an employee subject to the mandate is deemed to have made a Roth catch-up election as soon as the applicable limit is reached, so that all catch-up contributions will be made on a Roth basis, even if the employee had made Roth contributions earlier in the year.

Separate-election plans. Some plans provide that employees may make a separate election each pay period to deem a portion of the elective deferral as a catch-up contribution. (Ordinarily, the determination of whether an elective contribution is a catch-up contribution is made as of the last day of the plan year.) The final regulations permit a separate-election plan to apply the deemed Roth catch-up election each pay period. As with all deemed Roth catch-up elections, the plan may only do this if the employee has an effective opportunity to make a new election that differs from the deemed election — i.e., to make no deferral or to make a pretax deferral, if permissible (see [Option to make different election](#) above). If those contributions are later determined not to be catch-ups (e.g., because the employee hadn't exceeded the 402(g) limit), the plan is not required to recharacterize those deferrals as pretax.

Plans with no Roth program

The final regulations confirm plans that don't offer a Roth contribution program don't have to add one to comply with the Roth mandate's requirement to offer non-high earners the option to make catch-ups on a Roth basis. In such a plan, only employees who aren't subject to the mandate can make catch-up contributions (and only on a pretax basis).

No violation of the universal availability requirement

The [IRC](#) and regulations [Section 1.414\(v\)-1\(e\)](#) include a "universal availability requirement" for catch-up contributions, which generally says all catch-up-eligible employees must be able to make catch-up contributions up to the same dollar amount. The final regulations confirm that a plan with no Roth

program won't violate the universal availability requirement even though employees subject to the Roth mandate can't make catch-up contributions while other employees can. This is because the final regulations provide that a plan satisfies the universal availability rule if each catch-up-eligible employee can make catch-up contributions up to the dollar limit that applies to them (under a plan with no Roth program, the catch-up limit for employees subject to the Roth mandate is \$0, while the regular catch-up limit applies to other catch-up-eligible employees).

Application to controlled groups. The universal availability requirement applies on a controlled group basis. However, the final rule confirms that plans in a controlled group not offering a Roth program — and therefore not allowing high-earners to make catch-up contributions — will not cause a failure of the universal availability requirement merely because other plans in the controlled group with Roth programs limit high-earners to making catch-up contributions on a Roth basis.

Collectively bargained employees. In response to comments, the final regulation says that plans won't violate the universal availability requirement simply because collectively bargained employees aren't offered the opportunity to make catch-up contributions (or may make catch-up contributions to a lesser extent than other employees).

Benefits, rights and features testing

Under the existing regulations in [Section 1.414\(v\)-1\(d\)\(4\)](#), a plan won't violate benefits, rights and features (BRF) testing merely because the group of employees that can make catch-up contributions doesn't satisfy the IRC's minimum coverage requirements. However, under the final regulations, this rule doesn't apply to a plan with no Roth program that allows catch-up contributions by employees who aren't subject to the Roth mandate. Such a plan might need to exclude some highly compensated employees (HCEs) from making catch-up contributions if any non-HCEs are prevented from making catch-ups by the Roth mandate. This could occur, for example, if a partner earned enough in the preceding year to be an HCE in the current year but isn't subject to the Roth mandate because the preceding-year earnings were self-employment wages instead of FICA wages.

The final regulations include a new safe harbor to address this situation. A plan with no Roth feature will be deemed to satisfy BRF testing with respect to the availability of catch-up contributions if the plan prohibits catch-up contributions by all HCEs with "net earnings from self-employment for the preceding calendar year from the employer sponsoring the plan above the Roth catch-up wage threshold." The preamble says a plan may rely on this safe harbor rule even if the plan has no participants with net earnings from self-employment for the previous year.

Plans with Roth programs that aggregate wages. The new safe harbor is also available to a plan with a Roth program that optionally aggregates wages from related employers to determine if the Roth mandate applies (see [Permissible aggregation of wages from related employers](#) above). Under such a plan, non-HCEs could be limited to making Roth catch-up contributions based on their aggregated wages (even if they wouldn't have been limited to Roth had the determination been based only on their wages with the current employer). In this case, a plan might need to exclude HCEs from making catch-up contributions to pass BRF testing. Under the regulations, the plan will be deemed to pass if it prohibits

catch-up contributions by HCEs whose net earnings from self-employment in the preceding year exceed the Roth mandate threshold.

Miscellaneous issues

The proposal also addresses the following additional issues:

- **Non-calendar year plans.** The final regulations clarify the application of the mandate for non-calendar-year plan years. These plans face added complexity when administering the Roth mandate, because an employee's preceding-year FICA wage threshold is determined on a calendar-year basis. This means that the determination of whether an employee is subject to the Roth mandate must be made separately for the two plan years coinciding with a given calendar year. The regulation includes an example of a plan with a July 1–June 30 plan year to illustrate this point. In the example, an employee who is eligible to make catch-up contributions in 2027 earned above the FICA wage threshold in 2026. The employee is therefore limited to making Roth catch-up contributions during the second half of the 2026 plan year (i.e., from Jan.–June 2027) as well as the first half of the 2027 plan year (i.e., from July–Dec. 2027). Whether the employee continues to be subject to the Roth mandate for the second half of the 2027 plan year (i.e., from Jan.–June 2028) will depend on the employee's FICA wages in 2027.
- **Special catch-up contributions under 403(b) plans.** Certain 403(b) plans can allow employees with at least 15 years of service to make special catch-up contributions. If an employee is eligible to make both regular and 403(b) special catch-up contributions, the employee's catch-up contributions are first treated as 403(b) special catch-up contributions and then as regular catch-up contributions. The preamble to the final regulations confirms that the 403(b) special catch-up contributions aren't subject to the Roth mandate.
- **Special catch-up contributions under 457(b) plans.** Governmental 457(b) plans can allow employees to make special catch-up contributions during the last three taxable years ending before normal retirement age. These special catch-up contributions are separate from regular catch-up contributions at age 50 and later, and employees must choose one or the other. Usually, the special catch-up limit is much higher than the regular limit, but for some employees, the regular limit may be greater. The Roth mandate doesn't apply to the special 457(b) catch-up contributions, so SECURE 2.0 amended Section 457(e) to address the situation when the regular limit exceeds the special limit. Although not part of the final regulations, the preamble explains that the SECURE 2.0 change means that if an employee is subject to the Roth mandate, any catch-up contribution up to the special catch-up limit needn't be Roth, but any catch-up contributions in excess of that limit must be made on a Roth basis. (The preamble also notes that 2016 proposed regulations relating to the inclusion of a qualified Roth contribution program in an eligible governmental 457(b) plan have not yet been finalized.)
- **US-Puerto Rico dual-qualified plans.** The final rule also addresses the application of the Roth mandate to plans that are "dual-qualified" in both the US and Puerto Rico. Unlike the IRC, the Puerto Rico tax code doesn't allow Roth contributions, but it does allow after-tax contributions. In response

to comments, the final regulation includes transition relief providing that a dual-qualified plan will be deemed to satisfy the Roth mandate for any tax year beginning before the Puerto Rico tax code is amended to provide for designated Roth contributions. (The proposal said a dual-qualified plan could comply with the Roth mandate by allowing Puerto Rico employees subject to the mandate to make catch-up contributions on an after-tax basis.)

- **SIMPLE IRAs and SARSEPs are exempt.** Savings incentive match plans for employees (SIMPLE IRAs) and salary reduction simplified employee pension plans (SARSEPs) can also accept catch-up contributions. However, the Roth mandate doesn't apply to these arrangements.

Related resources

Non-Mercer resources

- [Final regulations](#) (Federal Register, Sept. 16, 2025)
- [News release](#) (IRS, Sept. 15, 2025)

Mercer Law & Policy resources

- [User's Guide to SECURE 2.0](#) (regularly updated)
- [IRS proposes rules on Roth catch-up mandate for high earners](#) (Feb. 27, 2025)
- [Lawmakers release SECURE 2.0 corrections bill for beta testing](#) (Jan. 12, 2024)
- [IRS delays SECURE 2.0's Roth catch-up mandate until 2026](#) (Aug. 29, 2023)
- [Implementing SECURE 2.0's Roth provisions may tax DC plan sponsors](#) (April 11, 2023)

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