

Roth Catch-Up Contributions

The Secure Act 2.0 made an important change for both qualified 401(k) and 403(b) plans regarding catch-up contributions. Even though the final IRS regulations generally apply in 2027, plan sponsors must begin operating in good faith compliance with the new Roth catch-up rule starting in 2026. Participants earning over \$150,000 in FICA wages during the prior calendar year (adjusted annually for cost-of-living) are required to make their catch-up contributions as Roth contributions. These participants will be referred to as “Highly Paid Individuals,” or HPI.

Who is considered an HPI?

- A HPI is not necessarily a highly compensated employee (HCE).
- A participant who in the prior calendar year had FICA wages greater than \$150,000 from the employer sponsoring the plan. This is Box 3 wages on the W-2.
- Participants with 1065 K-1 income or Schedule C income are not a HPI (these are not considered FICA wages).
- FICA wages are based on a calendar year, not the plan’s fiscal year.

Plan Sponsors will need to make decisions on how to implement the Roth catch-up contributions in the plan document. The plan must allow Roth contributions or amend the plan to allow for Roth contributions. If the plan does not allow for Roth contributions, HPI’s cannot make catch-up contributions. In addition, the plan must permit all eligible catch-up participants to make Roth catch-up deferrals, regardless of FICA wages. Plans that have elected the optional provision of the “Super Catch-Up” for participants ages 60-63 must apply these same Roth catch-up rules for HPI employees.

A HCI is determined on an employer-by-employer basis. Therefore, if a HCI works for related employers, plan sponsors do not have to aggregate wages. However, the regulations allow plan sponsors to voluntarily aggregate wages in a controlled group, affiliated service group, or predecessor employer for ease of administration.

A few methods for correcting failures are available. Any correction may be used but the plan must use the same correction method for all similarly situated participants in a plan year. In addition, the plan must have policies and procedures in place prior to January 1, 2026, that are designed to ensure compliance with the mandatory requirements.

Option #1: Form W-2 Correction

If the employer has not yet issued or filed the participant’s W-2, the employer can reflect the recharacterized contributions as taxable wages on Form W-2. The employer can then move the contributions, plus earnings, from the participant’s pre-tax account to the participant’s Roth account. Because W-2’s are generated in January following the tax year, this would need to be done very quickly at the beginning of the year to ensure the W-2 is corrected in a timely manner.

Option #2: In-Plan Roth Rollover Correction Method

The employer can move the recharacterized deferral, plus earnings, to the participant's Roth account as an in-plan Roth rollover and report the amount rolled over on Form 1099-R. The deadline to make corrections under this method will depend on which limit the catch-up contribution has exceeded. For example:

- ADP refunds must be corrected by March 15 of the following year.
- 402(g) limit must be correct by April 15 of the following year.
- 415 limit must be corrected 9 ½ months following the end of the plan year (October 15 for calendar year plans).

Option #3: Refund the Deferral

A participant's pre-tax catch-up contribution that was required to be a designed Roth contribution may be corrected by returning the pre-tax contribution (including allocable gain/loss) to the participant. The participant receives a Form 1099-R in the year of correction. This is the only option available if there are no policies and procedures in place.

Correction is not required if the amount of the pre-tax contribution that should have been designated as a Roth contribution does not exceed \$250, or if the failure is due to an amended W-2 provided after the correction deadline reflecting that the participant was subject to the Roth catch-up rule.

The regulations provide two strategies that can assist plan sponsors and HPI participants in dealing with the challenges of the Roth catch-up rules.

1. **Deemed Roth election.** The plan can provide that HPIs are deemed to have irrevocably elected that all catch-up contributions will be Roth. Plans are permitted to apply the deemed election:
 - After the participant has reached a limit (402(g), 415 or plan limit).
 - The plan must provide HPIs with the effective opportunity to opt out of making catch-up contributions.
 - Plans must adopt the deemed election in order to use the W-2 and in-plan Roth rollover correction method.
2. **Prior Roth contributions.** If a participant has, within the calendar year the catch-up arises, previously made Roth deferrals, those deferrals can count towards satisfying the Roth catch-up requirement, even though the previous deferrals were not themselves catch-up contributions.

It will be important that Plan Sponsors communicate these new rules with their employees and HPI participants that are catch-up eligible. Plan Sponsors should also coordinate with their payroll provider, recordkeeper and third-party plan administrator as soon as possible to update systems, understand responsibilities and facilitate the changes necessary to operationally comply with the Roth catch-up provision.