

## **Big Catch-up Contribution Changes Coming in 2026**

**By: Alison J. Cohen, Esq., APR, APA**

Effective January 1, 2026, big changes are coming to the calculation of catch-up contributions for certain Highly Paid Individual (“HPIs”). Under SECURE 2.0, starting in the 2026 plan year, HPIs making catch-up contributions to a 401(k) plan, a 403(b) plan, or a governmental 457(b) plan must do so on a Roth basis. The Internal Revenue Service issued proposed regulations earlier this year to try to give Plan Sponsors some idea on how this new requirement should be administered. We do not have the final regulations and that means that, for now, Plan Sponsors should follow the proposed regulations in good-faith. As soon as final regulations are released, we’ll provide the necessary updates.

### **What is the New Roth Catch-up Requirement?**

HPIs earning more than \$145,000 (as adjusted for cost-of-living in years starting after 2025) in FICA wages in the prior year must have their catch-up contributions be in the form of designated Roth contributions (“Roth”).

### **Does This Mean that All Plans with Catch-up Contributions Have to Add Roth?**

No. Plan Sponsors that do not want to add a Roth provision to their plan do not need to do so, nor do they need to stop permitting catch-up contributions. However, only non-HPIs would be able to make catch-up contributions under such plan. This means that Plan Sponsors will need to monitor who is an HPI and ensure that they are not permitted to defer more than the deferral limit, known as the Code §402(g) limitation. That limit for 2025 is \$23,500. Plan Sponsors that want to keep catch-up contributions available for all their participants will need to ensure that their Plan permits Roth deferrals (and amend it to do so, if it does not already so permit). The addition of Roth may not apply to just catch-up contributions; it must apply to all deferrals made by all participants under the plan.

### **Must an HPI Affirmatively Elect to Have Catch-up Contributions Treated as Roth Amounts?**

No. A plan can provide that, in the absence of an affirmative election to the contrary, HPI participants will be deemed to have irrevocably elected that their catch-up contributions will be Roth. However, a participant must have an effective opportunity to opt out of this deemed election and, instead, have their deferrals stop when the applicable limit is reached. It is unclear whether this information must be included in the plan’s Summary Plan Description or whether a simple annual notice can be distributed. Ferenczy Benefits Law Center has created a sample notice that will be made available upon request to our clients.

### **How Can a Plan Sponsor Correct if an HPI Accidentally Contributes Pre-tax Catch-up Contributions?**

There are three ways in which a Plan Sponsor may correct an HPI’s pre-tax catch-up contributions. The method depends on when the mistake is identified. First, if the mistake is identified *before* the Form W-2 is issued, the employer can move the excess contributions plus earnings to the participant’s Roth account in the plan and reflect the Roth status of the deferrals on the Form W-2 by including them (but not the earnings) in taxable wages.

Second, if the mistake is caught no later than 2 ½ months (6 months for certain automatic enrollment plans) following the end of the plan year (for catch-ups triggered by an ADP testing failure), or by April 15 (for catch-ups triggered by exceeding the 402(g) deferral limit), the mistake may be corrected by doing an in-plan Roth rollover. The proposed regulation is unclear whether there is still availability to self-correct by this method after these timeframes are exceeded. For now, we need to consider these deadlines as rigid.

Lastly, there is the ultimate correction of the mistake, which is the distribution of the potential catch-up contribution amount to the participant.

One key point that the proposed regulation made clear is that, to take advantage of these correction options, a Plan Sponsor must have a Policy & Procedure in place at the time the deferrals are made specifically related to the Roth Catch-up Contribution requirement. Again, Ferency Benefits Law Center has prepared a good-faith procedural document for our clients to adopt, if you want to reach out to us.

### **How Does a Plan Sponsor Identify an HPI?**

Any catch-up eligible participant whose FICA wages for the preceding calendar year from the Plan Sponsor exceeded \$145,000 is required to comply with the Roth Catch-up requirements. Therefore, if a participant's FICA wages in 2025 were over the limit, the participant's 2026 catch-ups must be Roth.

The proposed regulations define FICA wages based on Social Security taxable wages for the tax year (Box 3 on Form W-2). Therefore, if the participant doesn't have any FICA wages, such as a partner with only self-employment income or certain state or local governmental employees, they would not be an HPI and would not be limited to making catch-up contribution as Roth. The Catch-up proposed regulation is a reminder that FICA wages on Box 3 of the Form W-2 may differ from wages on Box 1, the number a Plan Sponsor would normally use to compute plan compensation. For example, vested deferred compensation is taxable for FICA, but tax is delayed for normal income taxes.

### **What Are Your Next Steps?**

Talk to your Third Party Administrator, service provider, and/or payroll provider regarding the nuances regarding this new requirement and what changes you may need to make to your plan and your plan/payroll procedures. There are other parts of this requirement not covered in this article. [You can read about more details in our Flashpoint.](#)

If you have questions, please call us. Remember: we are your ERISA solution!

*Talk to Your TPA:*

As the calendar year comes to an end, it is important that you talk to your TPA to make sure that there are no lingering forfeitures from the prior plan year or strategize how to spend the current year forfeitures. Forfeitures are required to be used no later than the end of the plan year following the year in which the funds were forfeited. The same is true for any ERISA Budget or PERA accounts that you may have. Your TPA can identify the funds that need to be spent and the ways the plan document permit forfeitures to be used. See our [Flash in the Plan June 2025 edition](#) for more details.

*Key Dates:*

**09/15/25**

Deadline to fund pension contributions (8.5 months after plan year end)

**10/01/25**

Deadline to implement deferrals for new 401(k) safe harbor plans for a 2025 short plan year (10/1 – 12/31)

**10/15/25**

Extended deadline to file 2024 Form 5500 for calendar year plans

**11/30/25**

Deadline for existing plans to adopt 3% safe harbor for 1/1/25 plan year (after that date, the 2025 safe harbor increases to 4%)

**12/01/25**

Deadline to distribute annual notices for 1/1/26 Plan Year