

Client Alert

June 2025

Treasury Proposes Highly Anticipated Guidance on Mandatory Roth Catch-Up Contributions

On January 13, 2025, the U.S. Department of the Treasury issued proposed regulations (the “Proposed Guidance”) to implement mandatory Roth “catch-up” contribution provisions enacted by the SECURE 2.0 Act of 2022 (the “Secure 2.0 Act”). This highly anticipated guidance has significant implications for sponsoring employers offering qualified 401(k), 403(b), and governmental 457(b) retirement plans and their affected plan participants.

The Secure 2.0 Act increased the catch-up contribution limit for eligible participants over the age of 50 to \$7,500 and for eligible participants ages 60–63 to \$11,250. Moreover, it required that catch-up contributions by eligible participants whose FICA wages for the prior taxable year exceeded \$145,000 (as adjusted for inflation for calendar years beginning in 2025) be contributed to a Roth account (the “Mandatory Roth Treatment”). Initially, the Mandatory Roth Treatment was scheduled to become effective for taxable years beginning in 2024, but the IRS deferred the effective date by two years to taxable years beginning in 2026 due to the overwhelming comments received from pension professionals, plan sponsors, and their representatives.

The Proposed Guidance addresses several technical issues in implementing the Mandatory Roth Treatment provisions. The Proposed Guidance clarifies that while qualified retirement plan sponsors may allow eligible participants to make catch-up contributions, sponsors are not required to implement a qualified Roth contribution program to accommodate elective catch-up contributions. The Proposed Guidance also requires sponsoring employers offering qualified Roth contribution programs to remain responsible for deducting all applicable payroll, employment and income taxes from such contribution amounts. To streamline the implementation of the Mandatory Roth Treatment, the Proposed Guidance includes two new methods by which a qualified retirement plan sponsor may correct failures to apply the Mandatory Roth Treatment to elective catch-up contributions. The first corrective method allows a sponsoring employer to transfer the elective deferral amount (not adjusted for allocable gain or

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loss) from the eligible participant's pre-tax account to his or her designated Roth account and to report the contribution as a designated Roth contribution on the participant's IRS Form W-2 for the year of the deferral. Sponsors are not permitted to use this corrective method if the participant's IRS Form W-2 for the year has already been filed or furnished to the participant. The second corrective method allows a direct rollover of the elective deferral amount (adjusted for allocable gain or loss) from the eligible participant's pre-tax account to his or her designated Roth account. The plan sponsor would report the amount of such in-plan Roth rollover on IRS Form 1099-R for the year of the rollover.

The Proposed Guidance provides these clarifications for plan sponsors to ease their administration and compliance responsibilities in implementing the Mandatory Roth Treatment. Plan sponsors may elect to apply the Proposed Guidance prior to the issuance of final regulations.

Please contact the Olshan attorney with whom you regularly work or one of the attorneys below if you would like to discuss further or have any questions.

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