EMPLOYEE BENEFITS AND EXECUTIVE COMPENSATION

Employee Benefits Newsletter

December 2023

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SECURE 2.0 Update: Mandatory Roth Treatment of Catch-Up Contributions Delayed Until 2026

The SECURE 2.0 Act implemented a requirement that catch-up contributions to 401(k), 403(b) and 457(b) plans for participants who are age 50+ and earned more than $145,000 during the prior year must be made as Roth (after-tax) contributions. That provision was originally scheduled to take effect January 1, 2024, but new IRS guidance issued in August 2023 delays the requirement until **January 1, 2026**. Until that time, plans may continue accepting pre-tax catch-up contributions from all participants, regardless of their prior year wages. The August 2023 guidance issued a few clarifications to the new rule:

- The rule does not apply to participants who did not have prior year wages from the employer that were subject to social security taxes, such as a partner or other self-employed individual.
- Employers do not need a separate Roth election from employees affected by the rule. Employers can treat a prior election to make pre-tax catch-up contributions as an election to make catch-up contributions on a Roth basis.
- For plans maintained by more than one employer (including multiemployer plans), the $145,000 threshold applies separately to each employer. Prior year wages earned from more than one employer are not aggregated to determine if the participant exceeds the threshold.

We expect guidance in the future on other SECURE 2.0 provisions and will keep you posted. Please refer to our prior client alert for a description of the major changes included in SECURE 2.0. If you have questions or need assistance updating your plan documents to reflect the changes, please reach out to a member of our Employee Benefits and Executive Compensation practice group.