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# Roth Catch-Up Regulations

## Details and Practical Approach for Compliance

by Baumgard + Fedance LLP | November 16, 2025 |

Back in late 2022, SECURE 2.0 Act's Section 603 added a wage-based restriction to catch-up contributions. For certain higher-earning participants, catch-up contribution had to be made as designated Roth contributions, as opposed to whatever money source the participant elected.[1] The Treasury Department recently promulgated its final rule on the matter.[2] These regulations provide much-needed administrative guidance concerning payroll data, specifically Form W-2 FICA wages, elections, aggregation rules, plan design, and formal correction procedures.

The rule appears on its face to be a simple qualification requirement, but it operates through more administratively burdensome employment-tax mechanics: W-2 timing, Box 3 and Box 5 wage feeds, and standardized year-end reconciliation. If a plan has any participant who meets the statutory high-wage trigger, the plan must either allow Roth catch-ups or accept a $0 catch-up limit for that participant.[3]

SECURE 2.0 went further and introduced the "super catch-up" for participants aged 60–63 which allows them to make additional § 414(v) catch-up contributions.[4] If a participant is both in the high-wage group and within that age band, any "super catch-up" deferral must also be Roth.[5]. Together, these rules create a new two-tier catch-up system that requires payroll, TPA, recordkeeper, and plan document coordination by January 1, 2026.

Although these provisions appear straightforward, their real-world implementation has created uncertainty among payroll teams, TPAs, recordkeepers, and plan sponsors. Treasury's final regulations attempt to resolve these practical issues by anchoring compliance in W-2 data and standardized procedures.

### I. Statutory Background: SECURE 2.0 § 603 and the New § 414(v)(7)

Section 603 of the SECURE 2.0 Act amended § 414(v) by adding paragraph (7), titled "Certain Deferrals Must Be Roth Contributions." The new provision requires that, if an otherwise catch-up-eligible participant had wages (as defined in § 3121(a)) from the employer sponsoring the plan exceeding $145,000 in the preceding calendar year, then all catch-up contributions made in the current year must be designated Roth

[1] SECURE 2.0 Act of 2022 § 603(a); Internal Revenue Code (IRC) § 414(v)(7)(A).
[2] T.D. 10033, "Catch-Up Contributions," 90 Fed. Reg. 44527 (Sept. 16, 2025).
[3] Treas. Reg. § 1.414(v)-2(b)(1).
[4] SECURE 2.0 Act of 2022 § 109; IRC § 414(v)(2)(B)(ii).
[5] IRC § 414(v)(2)(B)–(E); Treas. Reg. § 1.414(v)-1(c)(4).

contributions.[6] The $145,000 threshold is indexed for inflation for taxable years beginning after 2024, using the § 415(d) cost-of-living methodology, with a base quarter beginning July 1, 2023, and rounding down to the nearest $5,000 increment.[7] In IRS Notice 2025-67, the IRS announced that the high-wage threshold for Roth catch-up applicability increases from $145,000 to $150,000 for taxable years beginning in 2026. Although the $145,000 figure never formally went into effect due to the transition relief, this upward adjustment reflects the statute's built-in § 415(d) cost-of-living indexing.

The statute also embeds a plan-level Roth-availability requirement: if an applicable employer plan has any participant subject to the Roth-only rule for a plan year *and* the plan offers catch-up contributions that year, then the plan must provide a designated Roth catch-up contribution option to all catch-up-eligible participants.[8]

The statute left many operational details unanswered. Congress did not prescribe operational mechanics or correction procedures, § 414(v)(7)(D) directs the Secretary of the Treasury to issue regulations and guidance as necessary to carry out the purposes of this subsection

Treasury's final regulations, released nearly two years later, fill these gaps, effectively retooling § 414(v) to function within today's payroll and recordkeeping systems.

***Applicability Date, Transition Period, Amendments, and Relief***

Although § 414(v)(7) applies by statute to taxable years beginning after December 31, 2023, Treasury recognized that employers, payroll providers, and recordkeepers would need substantial time to re-engineer systems. To bridge that gap, IRS Notice 2023-62 established a two-year administrative transition period.[9]

Under this relief, catch-up contributions made in 2024 and 2025 are treated as compliant with § 414(v)(7) even if not designated Roth, provided the plan otherwise satisfies qualification requirements. This means that payroll systems have been permitted to temporarily continue accepting pre-tax catch-ups while Roth functionality is implemented. The Notice further clarifies that participants may continue making catch-up contributions during this transition and those deferrals will not be disqualified solely because they were not Roth. SECURE 2.0's timeline effectively jumped ahead of practical implementation, prompting the IRS to issue Notice 2023-62 for transition relief and later Notice 2025-67 to update the indexed figure to $150,000 before the rule's first true applicability year.

The final regulations adopt this transition framework and codify the mandatory operational start date of January 1, 2026, in Treas. Reg. § 1.414(v)-2(e)(2)(i). Beginning in 2026, every plan offering catch-ups must either (1) support designated Roth contributions for high-wage participants or (2) treat such participants as ineligible for catch-up contributions.

The Roth catch-up rule applies only to 401(k), 403(b), and eligible governmental 457(b) plans. It does not apply to SEP or SIMPLE arrangements, nor to tax-exempt 457(b) or and ineligible governmental 457(b) plans.

Importantly, the regulations provide a one-year "reasonable, good-faith interpretation" period. For taxable years before 2027, compliance will be judged under a good-faith standard with respect to § 414(v)(7).[10] This rule effectively preserves flexibility for 2024–2026 plan operations, aligning with the Notice 2023-62 transition window. In addition, special timing rules apply to governmental and collectively bargained plans. These plans have until the end of their first regular legislative session or collective-bargaining cycle ending on or after January 1, 2026, to implement the Roth-catch-up requirement.[11]

[6] SECURE 2.0 Act of 2022 § 603(a); IRC § 414(v)(7)(A).
[7] IRC § 414(v)(7)(E).
[8] IRC § 414(v)(7)(B).
[9] Notice 2023-62 § IV.
[10] Treas. Reg. § 1.414(v)-2(e)(2)(i).
[11] Treas. Reg. § 1.414(v)-2(e)(2)(ii)–(iv).

| | Implementation | Applicability Date | Compliance Standard |
|---|---|---|---|
| Transition Period (Operational Relief) | Catch-ups in 2024–2025 treated as compliant even if not Roth, provided plan otherwise qualifies | Calendar Years 2024 – 2025 | Temporary administrative relief under Notice 2023-62 |
| Good-Faith Implementation Year | Plans must operate under a reasonable, good-faith interpretation of § 414(v)(7) until their applicable final-regs date | Calendar Year 2026 | Good-faith standard applies; positions rejected in the preamble are not reasonable |
| Final Regs Fully Applicable (*Non-CBA Plans*) | 401(k) and 403(b) plans not covered by collective bargaining or governmental rules | January 1, 2027 | Full compliance with final regulations begins |
| Final Regs Fully Applicable (*CBA Plans*) | Plans maintained pursuant to collective bargaining agreements | Later of: (1) taxable years after Dec 31, 2026, or (2) first taxable year after expiration of last CBA in effect on Dec 31 2025 | Align compliance with CBA cycle |
| Final Regs Fully Applicable (*Governmental 457(b)*) | Eligible governmental 457(b) plans | Later of: (1) taxable years after Dec 31, 2026, or (2) first taxable year after close of first regular legislative session beginning after Dec 31 2025 | Legislative-session timing controls |

Plan sponsors will also need to amend their plan documents to reflect how the final regulations are implemented. The general amendment deadlines are December 31, 2026, for most plans, December 31, 2028, for collectively bargained plans, and December 31, 2029, for governmental plans. The final regulations clarify that mid-year amendments to implement these Roth changes are not treated as prohibited modifications for safe harbor plans under Notice 2016-16, provided that the sponsor coordinates appropriate participant notices and vendor updates.

| Plan Type | Amendment Deadline | Key Considerations |
|---|---|---|
| 401(k) / 403(b) (*Non-SIMPLE / Non-CBA Plans)* | December 31, 2026 | Must reflect final regulations implementation and document Roth procedures |
| CBA Plans | December 31, 2028 | Align with post-CBA effective dates under final regulations |
| Governmental 457(b) Plans | December 31, 2029 | May coordinate with legislative session schedule |

## II. Retooling of § 414(v)

The final Treasury regulations restructure the catch-up rules to integrate SECURE 2.0's Roth-only mandate without disturbing the long-standing operational framework. Treasury retained the general catch-up structure in Treas. Reg. § 1.414(v)-1 and created a companion section, § 1.414(v)-2, to house the new Roth-specific provisions. Although the preamble does not expressly state the reason for dividing the regulations, the structure itself indicates Treasury's intent to preserve § 1.414(v)-1 as the general catch-up rule while locating the Roth-only provisions in a separate § 1.414(v)-2 for ease of future interpretation.

***Revised § 1.414(v)-1: General Catch-Up Limits and Cross-Reference***

Section 1.414(v)-1 continues to define catch-up contributions, the applicable dollar limits, and the universal-availability standard. The regulation explains how elective deferrals exceeding statutory or plan limits are treated as catch-ups and preserves the coordination rules across multiple plans.

### *Dollar Limits and COLA Adjustments*

For non-SIMPLE 401(k) and 403(b) plans, the "applicable dollar amount" under § 414(v)(2)(B)(i) was $7,500 for 2025 and increases to $8,000 for 2026, as announced in IRS Notice 2025-67.

Beginning in 2025, participants who attain ages 60 through 63 during the taxable year qualify for the "super catch-up" created by SECURE 2.0 § 109. Treasury incorporated this rule in § 1.414(v)-1(c)(2). The super catch-up equals 150 percent of the standard catch-up amount (or $10,000, if greater), with an initial limit of $11,250 for 2025, adjusted for COLA under § 415(d) for taxable years after 2025 using a July 1, 2024, base period and $500 rounding.[12] IRS Notice 2025-67 also confirmed that the "super catch-up" limit under § 414(v)(2)(E)(i) for individuals attaining ages 60 through 63 remains $11,250 for 2026, unchanged from its 2025 level.

In addition, IRS Notice 2025-67 raised the Roth catch-up wage threshold used to determine who is a high-wage individual (HWI) under § 414(v)(7)(A) from $145,000 to $150,000 for 2025 (used for determining 2026 plan-year applicability).

### *Universal-Availability*

Under Treas. Reg. § 1.414(v)-1(d)–(e), a plan satisfies universal availability if each eligible participant has an effective opportunity to make the maximum catch-up permitted for that individual. Offering the super catch-up only to the age 60–63 cohort does not violate universal availability, nor does providing different catch-up limits to collectively bargained groups consistent with § 410(b).

### *New §1.414(v)-2: Roth-Only Operational Rule*

The new § 1.414(v)-2 operationalizes § 414(v)(7) and governs how employers, payroll systems, and recordkeepers must administer Roth-only catch-ups for "high-wage" participants. It defines the wage-based applicability test, establishes the treatment of designated Roth contributions, details the correction methods, and prescribes the written-procedures requirement.[13]

The following summary outlines the key functional components of § 1.414(v)-2:

| | |
|---|---|
| **Scope** | Defines which participants fall under the Roth-only requirement. The regulation itself does not use the term "High-Wage Individual" (HWI). That is a shorthand adopted here for clarity. "HWI" refers to a participant whose prior-year FICA wages under IRC § 3121(a) from the employer sponsoring the plan exceed the indexed threshold ($145,000 for 2024 through 2025). Each employer applies the test separately unless a common-paymaster or § 414(b)/(c)/(m)/(o) aggregation election applies. |
| **Operation** | Establishes the Roth-only rule: once a participant is identified as an HWI, all catch-up contributions for the year must be designated Roth contributions. The regulation allows plans to credit earlier-in-year Roth elective deferrals toward satisfying this requirement and to implement a deemed-Roth election (where deferrals automatically switch to Roth once limits are reached, provided participants had an effective opportunity to elect otherwise). Payroll and W-2 reporting alignment are central compliance components. |
| **Nondiscrimination / Universal Availability** | Clarifies that plans may restrict the higher "super catch-up" limit (ages 60–63) to those participants without violating universal availability, so long as all catch-up-eligible employees may make at least the standard § 414(v) catch-up. For plans without Roth, sponsors may "level down" by prohibiting catch-ups entirely for anyone exceeding the HWI threshold to avoid impermissible feature disparities under §1.401(a)(4)-4. |
| **Corrections** | Provides two formal correction methods and a limited fallback:<br>(1) Form W-2 Method: reclassify pre-tax catch-ups to Roth before W-2 filing, taxing in the contribution year;<br>(2) In-Plan Roth Rollover: after W-2s are filed, convert the mis-coded pre-tax amount + earnings to Roth, taxable in the rollover year; and<br>(3) Refund/Distribution fallback: only if the plan lacks qualifying Roth "practices and procedures" or both formal windows have closed.<br>Uniformity is required across similarly situated participants. |

[12] Treas. Reg. § 1.414(v)-1(c)(2); IRC § 414(v)(2)(B)(ii).
[13] Treas. Reg. § 1.414(v)-2(a)–(d).

## III. High-Wage Determination

The most important aspect of the new Roth catch-up rules is the defining and flagging a high-wage individual (HWI). The final regulations anchor this determination in the employment-tax system, rather than in plan document compensation definitions. The test is designed to be objective, uniform across plan types, and capable of being administered by payroll which is where the relevant data resides.

### *Look-back and Source of Data*

Under § 1.414(v)-2(a)(2), the determination hinges on wages as defined in § 3121(a) that are actually paid during the preceding calendar year by the employer sponsoring the plan. This "look-back" rule keys directly to the participant's Form W-2 rather than to the plan's definition of "compensation." Treasury chose a W-2, § 3121(a) wage-based trigger to align the rule with payroll and information reporting and to avoid variability inherent in plan compensation definitions (which can include elective deferrals or after-tax elements).

In practical terms, an individual is an HWI for a given plan year if the employee's W-2 wages during the prior calendar year from that employer exceeded the indexed threshold which was $145,000 for 2024 and 2025.[14] The threshold is strictly applied. There is no annualization or proration for partial-year employment. A late-year hire who earned $40,000 in 2025, even on a $200,000 annualized salary, is not treated as high-wage for 2026 because the test looks only to actual pay during the prior calendar year.

The default reference point is Form W-2, Box 3 (Social Security wages). However, recognizing that certain governmental or other employers maintain payroll systems that rely on Box 5 (Medicare wages), Treasury extended transitional relief through the end of 2026 allowing use of Box 5 as an alternative measure. After that date, Box 3 becomes mandatory unless otherwise revised by subsequent guidance.

### *Employer-by-Employer Application*

The high-wage test is applied employer-by-employer, consistent with the statutory language "from the employer sponsoring the plan."[15] As a baseline, each common-law employer determines HWI status separately. This means that where multiple entities participate in a single 401(k), 403(b), multiple employer plan (MEP), or pooled employer plan (PEP), each must independently evaluate whether its own employees exceed the threshold.

That separation, while conceptually simple, can produce operational fragmentation for plans with shared administration across controlled-group entities. Accordingly, the final rule authorizes several optional aggregation elections, each of which must be affirmatively adopted and applied uniformly:

1. *Common paymaster election*. Employers using a common paymaster within the meaning of § 3121(s) may aggregate wages paid by that paymaster to determine high-wage status.[16]
2. *Controlled-group aggregation*. Members of a controlled or affiliated service group under § 414(b), (c), (m), or (o) may elect to aggregate wages across all such entities for this purpose.[17]
3. *Successor-employer coordination*. In an asset acquisition, the plan sponsor may choose to aggregate wages between the predecessor and successor employers either by issuing a single Form W-2 for the entire year or by applying a wage-base-offset method if separate W-2s are issued.[18]

Each election must be documented, disclosed in the plan's administrative procedures, and applied consistently for all similarly situated employees. Treasury rejected a general "facts-and-circumstances" test in favor of these discrete options, emphasizing that the goal is administrative predictability, not subjective fairness.

### *Puerto Rico Plans*

The final regulations carve out limited exceptions to immediate application. Participants in Puerto Rico-qualified plans are treated as outside the scope of § 414(v)(7) until Puerto Rico law is amended to recognize designated Roth contributions. [19]

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[14] IRC § 414(v)(7)(A).
[15] Id.
[16] Treas. Reg. § 1.414(v)-2(b)(4)(ii).
[17] Treas. Reg. § 1.414(v)-2(b)(4)(iii).
[18] Treas. Reg. § 1.414(v)-2(b)(4)(iv); Treas. Reg. § 31.3121(a)(1)-1(b).
[19] Treas. Reg. § 1.414(v)-2(a)(6).

***Simplified Insights on the Scope Test***
This employer-centric approach means that Roth catch-up applicability may differ across entities or plans within the same corporate family. A participant might be an HWI for one participating employer but not for another, depending on aggregation elections. In addition, the lack of annualization means that mid-year transfers, rehires, or equity events can produce divergent results across consecutive years. Employers should therefore treat the annual HWI determination as a formal payroll-calendar process, not an incidental compliance step, ideally before the first payroll of the year.

## IV. How the Roth-Only Rule Operates

Once an employer identifies who qualifies as an HWI, the next question becomes how to apply that status operationally. Section 1.414(v)-2 governs exactly how catch-up contributions must be treated for that plan year for anyone flagged as an HWI. The rule does not change the participant's eligibility to make catch-ups or the timing of those contributions. It simply recharacterizes their permissible tax treatment. In effect, it overlays a Roth-only constraint on the same deferral structure that existed before SECURE 2.0.

***Core Rule – Mandatory Roth Treatment for HWIs***
For every participant classified as an HWI, all catch-up contributions must be designated Roth contributions.[20] The regulation makes this treatment mandatory and non-waivable. If a plan fails to provide a Roth source, the consequence is that the affected participant's catch-up limit becomes $0. Treasury clarified that this "Roth-or-nothing" outcome does not violate universal availability rules because the rule applies uniformly to all participants meeting the statutory wage test.[21]

Operationally, the plan's recordkeeping and payroll systems must be capable of identifying when a participant's elective deferrals move from ordinary deferrals to "catch-ups," and must automatically channel those amounts into the designated Roth account. Once an amount is designated Roth, the election is irrevocable and the contribution is includible in income in the year deferred.[22]

***Crediting Earlier-in-Year Roth Deferrals – Optional Flexibility***
The final regulations recognize that some participants contribute on a mixed pre-tax/Roth basis throughout the year. To avoid unnecessary reclassification, § 1.414(v)-2(b)(1) and (2) permits a plan to "take into account" or credit earlier-in-year designated Roth deferrals toward satisfying the Roth-only requirement for later catch-up contributions once an applicable limit, such as § 401(a)(30), § 402(g), or § 415(c), is reached.

This means that if an HWI has already made enough Roth elective deferrals earlier in the year to cover the entire catch-up dollar limit, the plan may treat those existing Roth amounts as fulfilling the Roth-only rule. The plan may, however, choose not to adopt this crediting rule for administrative simplicity and instead require that all catch-ups after the limit trigger be Roth. Either approach is permissible, provided the rule is clearly stated in the plan's written procedures and applied consistently.

***Deemed-Roth Catch-Up Elections – Preventing Operational Misses***
To facilitate automatic compliance, § 1.401(k)-1 and § 1.414(v)-2 jointly authorize a "deemed-Roth catch-up election."[23] Under this construct, once an HWI reaches the applicable statutory limit, any additional elective deferrals are deemed Roth, without requiring a new participant election, so long as two conditions are met:[24]

1. The plan provides an effective opportunity for the participant to make a different election (for example, to discontinue deferrals or adjust percentages); [25] and
2. If later payroll information shows that the participant was not actually an HWI (for example, because a corrected W-2 lowered FICA wages below the threshold), the plan must offer a reasonable period to revoke the deemed election and restore normal deferral treatment.[26]

[20] Treas. Reg. § 1.414(v)-2(b)(1).
[21] Treas. Reg. § 1.414(v)-2(b)(2)-(3).
[22] IRC § 402A(a)(1); Treas. Reg. § 1.402A-1 Q&A-1.
[23] Treas. Reg. § 1.401(k)-1(f)(5)(iii)–(iv); Treas. Reg. § 1.414(v)-2(b)(1).
[24] Id.
[25] Treas. Reg. § 1.401(k)-1(e)(2)(ii).
[26] Treas. Reg. § 1.401(k)-1(f)(5)(iv)(B).

These deemed-Roth rules were designed to ensure that miscodings (*i.e.*, participants deferring pre-tax catch-up contributions when Roth is required) are prevented at the source. The "effective-opportunity" requirement, drawn from § 1.401(k)-1(e)(2)(ii), means the participant must have an administratively realistic window to act. Practically, this should be a short period (for instance, seven to fourteen days following notice that the Roth-only rule now applies).[27] Plans should document both the notice method and the duration of this window.

***Plan-Document Provision***

If a plan uses deemed-Roth catch-up elections, the plan document, or a formally adopted administrative policy incorporated by reference, should explicitly provide for them and permit participants to change or discontinue the deemed election once the Roth-only rule would otherwise apply.[28]

***Effective-Opportunity Communication Practices***

In practice, the effective-opportunity requirement under § 1.401(k)-1(e)(2)(ii) is satisfied when participants receive clear notice and a reasonable window to act on it. Plans should be able to demonstrate that participants were informed, understood the consequence of inaction, and had time to adjust their elections.

Best practice communications include:

- Describing deemed-Roth elections in the summary plan description (SPD) or participant guide;
- Highlighting the rule in annual pre-plan-year notices, such as safe-harbor or automatic-enrollment communications; and
- Providing real-time or near-real-time payroll alerts when the Roth-only rule becomes applicable.

***Operational Trigger Methods***

The final regulations permit two compliant methods for when the deemed-Roth election takes effect:

1. Pre-tax reaches § 402(g): The plan applies the deemed-Roth election once pre-tax salary deferrals alone hit the §402(g) limit. This method delays the deemed-Roth trigger until pre-tax deferrals independently reach the limit, but catch-up contributions still begin only when total elective deferrals exceed §402(g), and any pre-tax elective deferrals above that point must be corrected.[29]
2. Total deferrals reach § 402(g): The deemed-Roth election takes effect once the sum of pre-tax and Roth elective deferrals hits the §402(g) limit. Under this method, the deemed-Roth trigger aligns with the point at which catch-up contributions may begin, and any pre-tax elective deferrals made after exceeding §402(g) are treated as catch-up contributions and must be corrected under §414(v)(7).[30]

***Auto-Off Rule***

If subsequent payroll or employer data show that an employee is not subject to the Roth-only rule (for example, because a corrected W-2 reduces prior-year FICA wages below the threshold or the employee changes employers but remains in the same plan) the plan must cease applying the deemed election. [31] Already-designated Roth catch-ups need not be recharacterized.

***Payroll and Recordkeeping Coordination***

Because the Roth-only rule lives in payroll data, not plan data, the two systems must be synchronized in real time. Each January, employers must determine HWI status based on the prior year's § 3121(a) wages,

[27] Although neither Treas. Regs. §§ 414(v)(7) nor 1.401(k)-1(e)(2)(ii) defines a specific timeframe for "effective opportunity," in practice, most large payroll and recordkeeping systems require at least one payroll cycle (generally 7–15 days) after notice of a new deferral election before it applies. IRS examiners have historically treated such a window as satisfying the facts and circumstances test under the effective-opportunity standard.
[28] Treas. Reg. §§ 1.401(k)-1(f)(5)(iii)–(iv) and 1.414(v)-2(c)(3)(i)(B).
[29] Treas. Reg. §1.414(v)-2(b)(3)(i).
[30] Treas. Reg. §1.414(v)-2(b)(3)(ii).
[31] Treas. Reg. § 1.401(k)-1(f)(5)(iv)(B).

record those flags in payroll, and transmit them to the recordkeeper before the first payroll cycle of the new year.

Throughout the year, payroll logic should automatically "flip" deferral coding once the employee's elective deferrals become catch-ups unless the optional crediting rule described above fully satisfies the limit. Income tax withholding and W-2 reporting then follow normal Roth contribution rules. The contribution amount is included in Box 1 wages and identified as a designated Roth elective deferral.[32]

From the recordkeeper's perspective, source codes must be configured to distinguish Roth catch-ups from standard Roth deferrals, even if the plan expects all catch-ups to be Roth. This segregation supports later nondiscrimination testing and correction accounting. Each data feed between payroll and the recordkeeper should transmit at least three indicators (1) deferral type (pre-tax vs Roth), (2) source code (regular vs catch-up), and (3) age/HWI status flags, so that the Roth-only rule functions without manual intervention.

***Maintaining Clean Operation***

The best protection against § 414(v)(7) failures is advance documentation. A plan's administrative procedures should expressly:

(i) state which version of the crediting rule applies;
(ii) adopt a deemed-Roth structure and clearly defined effective-opportunity window; and
(iii) outline the communication protocol among sponsor, payroll provider, and recordkeeper.

Written practices and procedures additionally serve as a guide to daily operations and determine eligibility for Treasury's formal correction methods under § 1.414(v)-2(c). Plans that cannot demonstrate such procedures in place at the time of a failure are restricted to far less favorable correction options.

## V. Nondiscrimination and Universal Availability: Avoiding Asymmetry

The Roth catch-up mandate creates a new compliance interface between the § 414(v)(7) wage-based rule and the nondiscrimination and universal-availability standards that already govern elective deferrals. Treasury's final regulations acknowledge that once catch-ups become Roth-only for certain participants, plans must be careful not to create an impermissible difference in benefits, rights, or features under § 1.401(a)(4)-4. The goal is to ensure that the new Roth constraint does not inadvertently become a discriminatory plan feature.

***Distinct Concepts: HWI Status vs. HCE Status***

It is critical to separate the high-wage individual (HWI) determination under § 414(v)(7) from the highly compensated employee (HCE) test under § 414(q). The two are conceptually unrelated.

| | Code Section | Basis of Measurement | Threshold | Applies To |
|---|---|---|---|---|
| HWI | § 414(v)(7)(A)–(C) | Actual § 3121(a) wages paid in the preceding calendar year | $145,000 (2024–25) | Determines Roth-only catch-up status |
| HCE | § 414(q)(1)(B) | § 415(c)(3) plan-compensation during the look-back year | $160,000 (2025) | Determines ADP/ACP testing population |

An employee can therefore be an HCE but not an HWI (for example, an owner receiving mostly flow-through income) or vice versa (a high-salaried W-2 employee without ownership). These populations do not overlap neatly, and plans must manage both sets of rules simultaneously.

### Universal Availability: Plan Design Options

The universal-availability requirement under § 1.414(v)-1(d)(4) and (e) provides that if any participant is permitted to make catch-up contributions, then all participants who satisfy the age-50 rule must have an effective opportunity to do so on the same terms. Treasury clarified that the Roth-only rule for HWIs does not, by itself, violate universal availability because it is imposed by statute rather than by plan design.

[32] IRC § 402A(c)(1).

Nevertheless, plans must ensure that Roth functionality, or its absence, is applied uniformly. In practice, Treasury's final regulations recognize two compliant structures, and specify a deemed-compliance safe harbor for non-Roth plans that use a "level-down" restriction.

1. Full Roth Adoption (Preferred)
   The most straightforward approach is to adopt or confirm a qualified Roth contribution program under § 402A. All participants age 50 or older may then elect Roth or pre-tax catch-ups at their discretion, while the system automatically limits HWIs to Roth only. This design preserves equal access to catch-ups across all participants and eliminates any risk of feature discrimination under § 1.401(a)(4)-4.

2. Level-Down Restriction (Alternative for Plans Without Roth)
   A plan that does not offer Roth contributions may still satisfy § 1.401(a)(4) by adopting a plan provision that prohibits catch-up contributions for any participant, regardless of HCE or not, whose prior-year wages exceed the HWI threshold. In this structure, all affected participants are treated the same way. They simply cannot make catch-up contributions for that year. Because the restriction applies uniformly to everyone above the wage threshold, it does not create a prohibited feature difference.[33]

   Paragraph (b)(3)(i) of § 1.414(v)-2 establishes a narrow safe-harbor method for plans *without* a qualified Roth contribution program that cover both common-law employees and self-employed individuals. Under this provision, a plan is deemed to satisfy § 1.401(a)(4)-4 with respect to the availability of catch-up contributions if:
   1. the plan does not permit designated Roth contributions;
   2. the plan includes one or more highly compensated employees (as defined in § 414(q)) who are not subject to the Roth-only rule of § 414(v)(7); and
   3. the plan provides that no catch-up-eligible participants who are highly compensated employees with net earnings from self-employment for the preceding year above the Roth catch-up wage threshold may make catch-up contributions.

   This "HCE-with-self-employment-income" exclusion effectively levels down the group that could otherwise receive a more favorable treatment (*i.e.*, pre-tax catch-ups) and thus ensures the plan satisfies § 1.401(a)(4)-4 with respect to the availability of catch-up contributions.

   Paragraph (b)(3)(ii) extends this same principle to plans that *do* have Roth capability and elect to aggregate wages under § 1.414(v)-2(b)(4)(ii)–(iv). In that case, a plan may also restrict pre-tax catch-ups for employees not subject to the Roth-only rule, provided it does so uniformly under the same aggregation parameters.

   While permissible, the level-down approach is less flexible and can cause participant confusion. Most employers will find it simpler to adopt Roth capability so that the plan permits participants to maximize their contributions.

***Age 60–63 Super Catch-Up and Universal-Availability Consistency***

The regulations expressly address how the new age 60–63 super catch-up interacts with universal availability. A plan may limit the enhanced dollar cap to participants within that statutory age band without violating § 1.414(v)-1(e)(1). Offering the higher limit only to the 60–63 cohort is consistent with the statute's structure, provided that all other catch-up-eligible participants continue to have access to the standard catch-up limit for their age group.

Accordingly, a plan that offers both the standard catch-up and the super catch-up must still give every participant who attains age 50 an effective opportunity to defer the applicable amount for which they are eligible.

***Administrative and Testing Implications***

[33] Treas. Reg. § 1.414(v)-2(b)(1)(i); Treas. Reg. § 1.401(a)(4)-4.

In practice, the greatest nondiscrimination risk arises in plans that cover both W-2 employees and partners or self-employed individuals, where one group may be subject to the HWI Roth-only rule and another may not. If the plan does not offer Roth contributions at all, HWIs will have $0 catch-ups, while partners may still make pre-tax catch-ups based on self-employment income. Without careful drafting, this could look like a difference in features that favors owners.

To mitigate this risk, sponsors who maintain plans across related entities should:

- formally document which aggregation election under § 414(b), (c), (m), or (o) applies for HWI testing; and
- ensure that any level-down restriction follows those same aggregation boundaries.

Recordkeepers and TPAs should also confirm that the plan's Roth feature flag aligns with the current participant population so that nondiscrimination testing reflects the actual deferral options available to each group.

## VI. Corrections: Defined Methods, Uniformity, Deadlines, and Relief

Despite the detailed operational rules, Treasury anticipated that failures would occur, particularly during early implementation, where catch-up contributions for HWIs were mistakenly processed as pre-tax rather than Roth. To address these inevitable errors, the final regulations establish two formal correction methods, a uniformity rule, and a limited de minimis exception. They also specify that a plan's ability to use the formal methods depends on the existence of documented practices and procedures reasonably designed to ensure compliance with § 414(v)(7).

### *Overview of the Corrective Options*

A § 414(v)(7) failure arises when an elective deferral that should have been a designated Roth contribution, because it constitutes a catch-up for an HWI, is instead made on a pre-tax basis. The corrective options are structured around the timing of discovery relative to the issuance of Form W-2.

The available correction method depends on when the error is discovered relative to the Form W-2 filing:

- Pre-W-2 discovery: The employer may reclassify the contribution as Roth for that same tax year via Form W-2 reclassification.
- Post-W-2 discovery: The plan must implement an in-plan Roth rollover (IPRR) to convert the amount within the plan.
- Beyond both windows or lacking compliant procedures: Only a refund/distribution is permissible to remove the impermissible pre-tax catch-up.

Each method is intended to restore the proper tax character while preserving plan qualification and participant-level limits.

When neither of these two formal methods is available because the plan lacked compliant Roth procedures or the correction window has closed, a last-resort refund or distribution method may be used to remove the impermissible pre-tax catch-up from the plan.

### *Formal Correction Methods*

1. **Form W-2 Reclassification Method (pre-W-2 window)**
   If the plan identifies the error before Forms W-2 are filed or furnished, the misclassified contribution (plus or minus earnings in accordance with § 1.402(g)-1(e)(5)) is reclassified from pre-tax to Roth.[34] The participant's wages for that year are adjusted to include the amount in Box 1, and the contribution is reported as a designated Roth elective deferral. Because the Roth characterization is made in the same taxable year, the participant is taxed in the year of contribution, avoiding duplicate inclusion in later years. This approach functionally parallels the IRA recharacterization process.[35]

2. **In-Plan Roth Rollover Method (post-W-2 window)**
   If Forms W-2 have already been filed or furnished, the pre-tax amount plus earnings must be converted to the designated Roth account within the plan through a direct in-plan Roth rollover

[34] Treas. Reg. § 1.414(v)-2(c)(2)(i); Treas Reg. § 1.402(g)-1(e)(5).
[35] IRC § 408A(d)(6); Treas. Reg. § 1.408A-5.

(IPRR).[36] The rolled amount is taxable in the year of correction, and the transaction is reported on Form 1099-R.[37] The plan must provide a contemporaneous participant notice consistent with § 402A(c)(4). This method may be used even if the plan does not otherwise allow voluntary in-plan Roth rollovers, provided it adopts an administrative policy to accommodate corrections.

***Fallback Correction: Refund or Distribution for Non-Qualifying Plans***

The two formal methods are available only if, at the time the erroneous deferral was made, the plan maintained practices and procedures reasonably designed to ensure compliance with § 414(v)(7). Paragraph (c)(3)(i) of the final regulations defines this standard. Specifically, the plan must have operational rules that automatically treat catch-ups by HWIs as Roth, coupled with a deemed-Roth election and a reasonable effective-opportunity window to choose otherwise.

If the plan lacked such procedures when the failure occurred or if the failure is discovered only after the pre-W-2 and in-plan rollover windows have closed, the employer cannot use either formal method under § 1.414(v)-2(c)(2). In that case, the plan may refund or distribute the affected amount (plus allocable earnings) to remove the impermissible pre-tax catch-up from the plan.[38]

This "refund or distribution" remedy is not an official Treasury correction method but a logical fallback, akin to a corrective distribution of excess deferrals under § 402(g). The distributed amount is reported and taxed in the year of distribution; it does not retain catch-up status and does not count toward the participant's elective deferral limit for that year. Sponsors relying on this fallback should apply it consistently for all similarly situated participants and adopt formal Roth procedures prospectively to restore eligibility for the preferred methods.

***Uniformity Requirement***

Regardless of which correction path applies, sponsors must use the same correction method for all participants with the same type of failure discovered within the same timing window, *i.e.*, those pre-W-2 errors identified in a given year, and all post-W-2 errors found later. Selective use of different methods to achieve favorable tax results would violate the regulation's uniformity rule and could itself constitute a qualification failure.[39]

***Correction Deadlines***

The timing of Roth recharacterizations depends on the type of failure and the statutory rule implicated. The following framework aligns with the § 4979 excise-tax rules, § 402(g)/§ 401(a)(30) excess deferral deadlines, and the EPCRS qualification correction window:

| Deadline (*year following failure*) | Failure Type | Consequence if not recharacterized or corrected by this date |
|---|---|---|
| March 15 / June 30 (2½ mo / 6 mo after PYE for EACAs) | ADP/ACP-triggered catch-up (excess contribution or aggregate contribution) | § 4979 10% excise tax on uncorrected excess |
| April 15 | § 402(g)/§ 401(a)(30) excess deferral | Participant faces double taxation if not Roth-recharacterized or refunded |
| December 31 | General § 414(v)(7) operational failure | Uncorrected error becomes a disqualifying operational failure, remediable only through EPCRS |

***De Minimis Exception and No-Action Scenarios***

No correction is required when the aggregate pre-tax amount that should have been Roth is $250 or less, exclusive of earnings.[40] Likewise, if HWI status is discovered only through a late or amended Form W-2 after the applicable correction window has closed, the plan is not required to recharacterize prior

[36] Treas. Reg. § 1.414(v)-2(c)(2)(ii).
[37] IRC § 402A(c)(4); Form 1099-R Instructions (Box 7 code "G" for in-plan Roth rollover).
[38] See Rev. Proc. 2021-30, §§ 6.06.
[39] Treas. Reg. § 1.414(v)-2(c)(4).
[40] Treas. Reg. § 1.414(v)-2(c)(4)(i).

contributions.[41] Finally, if the participant's account has been fully distributed before discovery of the error, the plan may record the failure for administrative tracking purposes but need not pursue further correction.

***Simplified Insights***

From a compliance standpoint, the correction section of the final rule reinforces two messages.

1. A plan must maintain contemporaneous, written Roth-catch-up procedures. These serve as the gatekeeper for using the favorable correction methods.
2. Sponsors must apply correction techniques uniformly and predictably, documenting both timing and rationale.

Rather than supplanting EPCRS, the final rule codifies a subset of EPCRS-consistent correction channels: (i) reclassification before W-2 filing; (ii) in-plan Roth rollover after W-2 filing; and (iii) a residual refund/distribution when the others are unavailable. Each is designed to preserve qualification while ensuring tax integrity and procedural consistency.

## VII. Conclusion

The Roth-only mandate for high-wage individuals represents a fundamental shift in how plans administer elective deferrals. What began as a narrow tax-law amendment under SECURE 2.0 has evolved, through Treasury's final regulations, into a comprehensive operational standard that touches every aspect of plan administration from payroll configuration to fiduciary process.

For plan sponsors, the takeaway is straightforward: this is not a one-time amendment. It is an additional set of payroll and plan operation requirements. Plans that invest early in system integration, adopt clear Roth procedures, and document every procedural step will treat § 414(v)(7) as routine business. Those that delay or rely on manual corrections will find themselves permanently behind the regulatory curve.

For service providers, the rule brings about a new impetus for enhanced coordination. Treasury's "practices and procedures" condition effectively raises the bar for what counts as a compliant administrative system. The expectation going forward is that data flows are automated, corrections are methodical, and every Roth designation is traceable from payroll through plan records to participant reporting.

Section 414(v)(7) compliance is not simply about reclassifying dollars as Roth. Firms that treat the Roth-only mandate as an exercise in governance, not just coding, will not only satisfy the regulation but emerge stronger, audit-ready, and better aligned with the modernized compliance expectations Treasury and the IRS have set out.

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[41] Treas. Reg. § 1.414(v)-2(c)(4)(ii).

Readers should not act or rely on the information contained herein without seeking professional counsel based on their specific facts and circumstances.

Federal and state tax laws are complex and subject to change. The discussion herein reflects the authors' interpretation of current law and regulatory guidance as of the publication date.

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