

Client Alert

October 2023

IRS Announces 2-Year Delay for Roth Catch-Up Contributions

The Internal Revenue Service (“IRS”) recently issued Notice 2023-62 (the “Notice”), announcing a two-year delay to the Roth catch-up contribution requirement imposed by the SECURE 2.0 Act (“SECURE 2.0”). The Notice provides welcomed relief for plan sponsors, who now have more time to make the necessary adjustments to their company retirement plans.

SECURE 2.0 and Catch-Up Contributions

SECURE 2.0 was enacted by Congress in 2022 with the purpose of encouraging more employers to offer, and employees to participate in, retirement benefit plans. Currently, plan participants who are at least 50 years old are allowed to make catch-up contributions to their employer-sponsored retirement plans on a pre-tax basis. Under SECURE 2.0, however, plan participants earning more than \$145,000 a year would be required to make those contributions on an after-tax basis to a plan’s Roth account. This requirement would have taken effect on January 1, 2024.

New Guidance Under the Notice

Under the Notice, the Roth catch-up contribution requirement will not be effective until January 1, 2026, providing a period of transition for plan sponsors to update their plan documents, investment platforms, and plan investment management systems to comply with SECURE 2.0.

In addition, the Notice corrects a drafting error in the original SECURE 2.0 legislation that would have eliminated catch-up contributions for years after 2023. Moreover, if a plan participant makes elective deferrals to two or more plans during a year, the Notice clarifies that those deferrals will be aggregated for purposes of both the IRS annual plan limit on elective deferrals as well as the annual limit on catch-up contributions.

Lastly, the Notice identifies three areas under which the IRS will issue further guidance:

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1. Guidance clarifying that the Roth catch-up contribution requirement will not apply to plan participants who did not receive wages for purposes of the Federal Insurance Contributions Act;
2. Guidance providing that, in the case of a plan participant who is subject to the Roth catch-up contribution requirement, the plan administrator and employer may treat an election to make a pre-tax catch-up contribution as a Roth contribution; and
3. Guidance providing that for plans maintained by more than one employer, a plan participant's wages from one employer will not be aggregated with the wages from another employer for purposes of determining whether the plan participant earns more than \$145,000.

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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