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March 10, 2025

By Electronic Mail

Ms. Rachel Levy
Associate Chief Counsel
Employee Benefits, Exempt Organizations, and Employment Taxes
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, D.C. 20224

Ms. Helen Morrison
Benefits Tax Counsel
Office of Tax Policy
U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, D.C. 20220

Re: Proposed Rule: Catch-Up Contributions (REG-101268-24)

Dear Madams:

The National Association of Government Defined Contribution Administrators (NAGDCA) writes to provide comments in response to the Notice of Proposed Rulemaking: Catch-Up Contributions (REG-101268-24). We appreciate the help that the IRS and Treasury has historically provided in enhancing the practicality of implementing retirement-related legislation. We are especially grateful for the clarification provided by your previous communication on this topic, Notice 2023-62.

NAGDCA's 270 governmental plan sponsor members represent 15,000 governments in 49 states. Participants come from every level of state, territorial, and local government, including counties, cities, public safety agencies, school districts, transportation, and utilities. NAGDCA's members administer governmental deferred compensation and defined contribution plans, including Section 457(b), 401(k), 401(a), and 403(b) plans. The association provides a forum for working together to improve defined contribution plan operations and outcomes by sharing information on investments, marketing, administration, and the federal laws and regulations governing these plans.

The proposed rule addresses the operation of Section 603 of the *SECURE 2.0 Act of 2022* (SECURE 2.0, Div. T, H.R. 2617, 117th Cong.), requiring that catch-up contributions for higher income participants in Section 401(k), 403(b), and governmental 457(b) plans be designated as

Roth contributions (the “mandatory Roth catch-up” provision). The proposed rule also touches on an optional design change under Section 109 of SECURE 2.0 that permits eligible catch-up participants attaining age 60 through 63 during a calendar year to make “super catch-ups,” a higher dollar amount of catch-up contributions for such calendar year (the “increased catch-up” provision).

In our letter to you dated October 23, 2023, we wrote to ask that the IRS and Treasury provide guidance to the effect that the IRS will treat any Code section 415(c)(3)-compliant definition of compensation as a permissible definition to use in determining whether a participant is subject to mandatory Roth catch-up contributions because of having prior compensation in excess of the \$145,000 threshold in effect for 2024. We wrote that this approach is consistent with how the IRS and Treasury have historically allowed for a number of permissible definitions of compensation under the general language of Code section 415(c)(3). Further, adopting this position would help avoid the need for complex payroll system changes and technology interface updates at employers and recordkeepers, and reduce the likelihood that a plan failure will result from the need for a plan to use multiple definitions of compensation. We politely reiterate these statements and our previous request.

Additionally, we request clarification on whether the deemed Roth catch-up contribution option applies to eligible governmental 457(b) plans, as the proposed regulation only addresses 401(k)s and 403(b)s. Plan sponsors of 457(b) plans would be interested in availing themselves of the new correction methods offered under the proposed rule to 401(k) and 403(b) sponsors.

Thank you for your time and consideration. We would be happy to meet with you to discuss this matter further if it would be helpful. Please call David Levine at 202-861-5436, Brigen Winters at 202-861-6618, or the undersigned at 859-469-5789 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Matt Petersen', with a stylized flourish at the end.

Matt Petersen
Executive Director