

# Final Catch-Up Regulations and 457(b) Plans: A NAGDCA Perspective

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## AGENDA

Background

Key Changes and Provisions

Corrections

Effective Dates



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## Introduction and Background

- The final regulations offer guidance for retirement plans that permit participants aged 50 and over to make additional "catch-up" contributions.
- The regulations incorporate statutory changes from the SECURE 2.0 Act of 2022. This includes a new requirement for certain catch-up contributions to be designated as Roth contributions.
- The regulations impact participants, beneficiaries, employers, and administrators of specific retirement plans, including eligible governmental 457(b) plans.

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## The Roth Catch-Up Contributions Requirement

- **What Is It?** For participants whose wages from the employer sponsoring the plan in the prior year exceeded \$145,000, any catch-up contributions must be made on a Roth (after-tax) basis. This amount is subject to cost-of-living adjustments.
- **Who Is Affected?** This rule applies to participants in several types of plans, including 401(k), 403(b), and eligible governmental 457(b) plans.
- **How Is The Limit Calculated?** The \$145,000 threshold is determined by the participant's Federal Insurance Contributions Act (FICA) wages from the preceding calendar year.

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## Calculating the \$145,000 FICA Wage Limit

- **Which Wages Are Used?** The calculation is based on FICA wages that are subject to Social Security taxes – Box 3 of Form W-2.
- **Transition Relief:** Before the final regulations become fully applicable, a "reasonable, good faith interpretation" standard is in effect. Under this standard, plans can use Medicare wages (reported in Box 5 of Form W-2).
- **Governmental Entities Without FICA Wages:** Some state and local government employees are not covered by Social Security and do not have FICA wages, so are not subject to the new rules.

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## Impact on Governmental 457(b) Plans

- **Coordination With The Special 457(b) Catch-Up:** A participant in an eligible governmental 457(b) plan can be eligible for both the age 50 catch-up and the special 457(b) catch-up in the three years before reaching normal retirement age.
- **Application of Roth Requirement:** If a high-earning participant's total permitted contribution under the age 50 catch-up rules is higher than what is allowed under the special 457(b) catch-up, a portion of the catch-up contribution must be a designated Roth contribution.

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## Impact on Governmental 457(b) Plans

- **Calculating The Roth Portion:** The amount that must be designated as Roth is the difference by which the sum of the regular and age 50 catch-up limits exceeds the maximum contribution allowed under the special 457(b) catch-up rules.
- **Deemed Roth Election:** The final regulations permit a "deemed Roth catch-up election" for 401(k) and 403(b) plans. Although this was requested for 457(b) plans, these final regulations do not extend this provision to governmental 457(b) plans at this time. This is because separate proposed regulations for Roth 457(b) programs have not yet been finalized.

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## Impact on Governmental 457(b) Plans

- **Automatic Roth Treatment:** Governmental 457(b) plans can provide for the automatic treatment of additional elective deferrals as designated Roth contributions once a participant's deferrals go over the regular 457(b)(2) limit or the special 457(b)(3) limit for the employee.

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## Correction Methods For Non-Compliance

- **Form W-2 Correction:** The contribution can be moved to a Roth account and reported as a designated Roth contribution on the participant's Form W-2 for the year of the deferral. This method is only available if the Form W-2 has not yet been issued.
- **In-Plan Roth Rollover:** The plan can execute an in-plan Roth rollover of the incorrect pre-tax catch-up contribution, including earnings, to the participant's designated Roth account. This transaction is reported on Form 1099-R for the year the rollover occurs.

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## Applicability Dates for Governmental Plans

- **General Effective Date:** The statutory provisions of the SECURE 2.0 Act concerning Roth catch-up contributions are applicable to taxable years beginning after December 31, 2025.
- **Delayed Applicability for Governmental Plans:** For governmental plans, these new regulations (but not the rule itself) will apply to contributions in taxable years beginning after the later of two dates:
  - December 31, 2026, or
  - The conclusion of the first regular legislative session of the governing body with the authority to amend the plan that begins after December 31, 2025

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# Questions

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