



# RetireWell Administrators, Inc.

Third-party Pension Administration and Consulting Services

## ON TARGET

**RetireWell Administrators, Inc. provides total retirement plan solutions by combining TPA services with the employee benefits practice at The Law Firm of Anthony L. Scialabba, LLC.**

*Editor's Note: This article first appeared in our Spring 2025 newsletter. We are including it again because the topic continues to be highly relevant today. It has been lightly updated for this edition.*

### **Treatment of Catch-up Contributions as Roth Contributions**

*By Anthony L. Scialabba IV, Esq., QKA*

The "SECURE 2.0 Act" mandates all catch-up contributions to retirement plans to be subject to Roth contributions tax treatment effective for taxable years beginning after December 31, 2023 (delayed to after December 31, 2025). An exception is granted for employees with compensation of \$145,000 or less (indexed).

If your plan document permits catch-up contributions but does not permit Roth contributions, a plan amendment should be adopted if the plan's intent is to allow all employees to take advantage of catch-up contributions. If the plan is not amended to allow Roth contributions, those employees with compensation greater than \$145,000 in the prior year would not be eligible to make catch-up contributions. If your plan document permits catch-up contributions from both pre-tax and Roth contributions, a plan amendment does not need to be adopted to limit catch-up contributions to Roth contributions for employees with compensation greater than \$145,000. The SECURE 2.0 Act dictates that those over the threshold may only make catch-up contributions in the form of Roth.

Before the effective date of the new rule, recordkeepers, payroll companies, and document and testing software companies of plans will have to update their systems to accommodate treatment of catch-up contributions as Roth contributions. Thus, you should contact your payroll vendor to ensure that it is set up for the Roth contribution feature, and you should contact RetireWell Administrators, Inc. if the feature is still not permitted by your plan.

As to a Roth contribution feature, the contributions are taxed when they are withheld from pay, and when the contributions (including earnings) are distributed, they are not taxed. This taxation methodology favors younger, higher compensated employees who have longer time horizons rather than older workers who are age 50 or more and who can qualify for a catch-up contribution. The new rule may hurt older participants who would otherwise receive a tax deduction for their pre-tax contributions that are made on a "catch-up" basis.

If you have questions with respect to the treatment of catch-up contributions as Roth contributions or other retirement plan matters, please contact RetireWell Administrators, Inc. at 856-396-0499 or [ClientServices@RetireWellTPA.com](mailto:ClientServices@RetireWellTPA.com).

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## Exceptions to the Automatic Enrollment Requirement

*By Anthony L. Scialabba IV, Esq., QKA*

In recent years, the government has placed a higher emphasis towards enhancing retirement savings. In this regard, the “SECURE 2.0 Act” was signed into law on December 29, 2022. Section 101 of the Secure 2.0 Act requires retirement plans to implement an automatic enrollment feature (and automatic increase) by January 1, 2025, subject to certain exceptions. As a result of this mandate, there is expected to be a noticeable increase in the number of people saving for retirement. This piece covers the exceptions that apply to this mandate and additional information.

### 1. Small Businesses

Small businesses with generally ten or fewer employers may be exempt from the mandate. This exemption may be “lost” if the employer “normally” employs more than ten employees in a year. This exception aims to lessen the administrative burden on smaller businesses.

### 2. New Businesses

A plan sponsored by an employer in business for less than three years is generally exempt from the mandate. For businesses that have recently started operations, this exception serves to provide a grace period before they must adhere to the mandate.

### 3. Specific Plan Types

Church plans, governmental plans, and SIMPLE plans are exempt from the mandate.

### 4. Plans Established Prior to December 29, 2022

Any plan “established” before December 29, 2022 is generally exempt from the mandate. A 401(k) plan is established on the date it is adopted, regardless of the effective date of the 401(k) plan. For example, if an employer adopts a new 401(k) plan on September 5, 2022, with an effective date of January 1, 2023, the 401 (k) plan is established prior to December 29, 2022. In addition, if a profit-sharing plan was established before December 29, 2022, and the employer adopts an amendment to add a 401(k) feature on a date that is on or after December 29, 2022, then the 401(k) feature would have been established on whatever date the employer adopted the amendment (in which case, the mandate would apply).

In consideration of the aforementioned exemptions, employers should assess whether they are subject to the mandate. Both employers that are and are not subject to the mandate should consider adding automatic enrollment (and automatic increase), as they may feel good in knowing that their plans are using a feature that helps their employees save for retirement. If your plan document does not meet any of the exemptions discussed in this piece, an amendment must be adopted to add automatic enrollment (and automatic increase).

With respect to notifying employees concerning automatic enrollment (and automatic increase), an employer must notify all employees who are eligible to participate in the plan between 30 to 90 days before each plan year begins. For plans that automatically enroll employees immediately upon hire, an employer may provide employees a notice on their date of hire. If it is impractical to provide a notice to an employee prior to when the employee is eligible to be in the plan, the plan can still satisfy the notice timing requirements by: (1) providing notice to the employee before the pay date for the pay period in which the employee becomes eligible, and (2) permitting the employee to make deferrals from any compensation in which the employee received after becoming eligible. Moreover, if an employee opts out of automatic enrollment, then such employee would no longer be subject to automatic increase either.

If you have any questions with regard to automatic enrollment (and automatic increase) or other retirement plan matters, please contact RetireWell Administrators, Inc. at 856-396-0499 or [ClientServices@RetireWellTPA.com](mailto:ClientServices@RetireWellTPA.com).

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