

34th Annual
Tax Symposium

**IT'S TIME TO CATCH UP
ON THE 401(K) CATCH-UP
CONTRIBUTION RULES**

Charles M. Lax, Esq.



Maddin, Hauser, Roth & Heller, P.C.

One Towne Square, Fifth Floor, Southfield, MI 48076
p (248) 354-4030 f (248) 354-1422 maddinhauser.com



WHY ARE WE STILL TALKING ABOUT SECURE 2.0 ACT?

- Extensive legislation dealing with retirement savings
- While its primary purpose was to increase retirement savings, not the case for a new provision effective in 2026



QUICK REFRESHER COURSE ON 401(K) CATCH-UP CONTRIBUTIONS (“CUC”)

- For 2025, the “regular” 401(k) deferral limit is \$23,500 and for 2026 that limit increases to \$24,500
- Added in 2002, CUC began for participants age 50 and older at \$1,000 and has reached \$7,500 for 2025 and \$8,000 for 2026
- CUC can be made on either a pre-tax basis or after-tax Roth basis



QUICK REFRESHER COURSE ON 401(K) CATCH-UP CONTRIBUTIONS (“CUC”)

- CUC are generally ignored for testing purposes
 - Not included in the ADP test, but regular deferrals may be recategorized as CUC to help pass ADP
 - Not included in 415(c) limit of \$70,000 maximum for 2025 and \$72,000 for 2026
 - Not included in the plan limit such as 5% of compensation



INCREASED CUC FOR AGES 60-63

- Effective January 1, 2025 higher catch-up limits are available for participants who have turned 60, but have not yet reached 64
- During that period, the limit increases to 150% of the regular CUC limit
- The limit is \$11,250 for 2025 and will be \$12,000 for 2026



INCREASED CUC FOR AGES 60-63

- Other considerations
 - Contributions may be made either on a pre-tax basis or after-tax Roth basis
 - Not mandatory, however no reason not to add it
 - Can still be implemented this year, even without a plan amendment



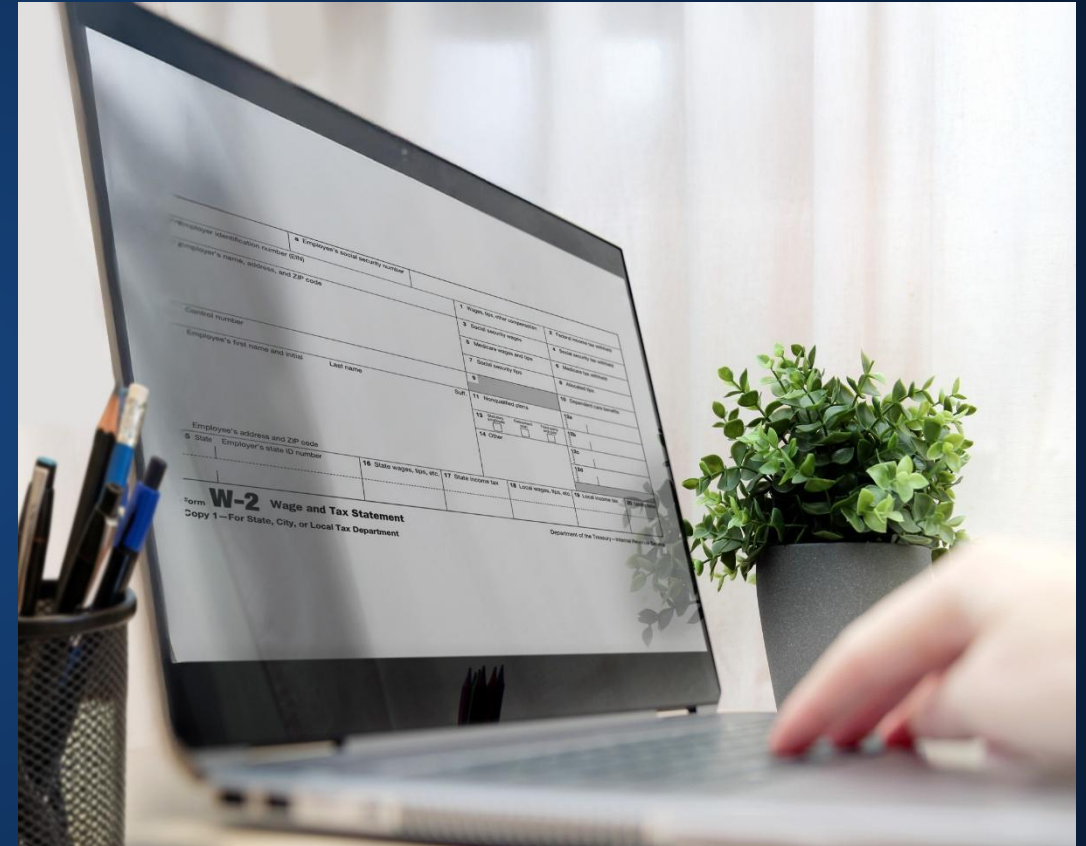
ROTHIFICATION OF CUC FOR HIGHLY PAID PARTICIPANTS (“HPP”)

- Beginning in 2026, CUC for HPP must be made in the form of Roth
 - The legislation originally had an effective date of January 1, 2024; however, the IRS postponed it to 2026
 - Generally, HPP is an individual whose compensation in the previous year exceeded \$145,000 adjusted for COLA
 - Any 401(k) plan that does not permit Roth contributions may not allow HPP make CUC



DETERMINATION OF WAGES FOR HPP CUC

- Based upon FICA wages as reported in Box 3 of Form W-2
- No need to prorate the limit if the participant is first hired mid-year
- Generally, based upon wages received from the common law employer of the participant sponsoring the plan



DETERMINATION OF WAGES FOR HPP

- Since a self-employed individual or a partner does not receive FICA wages, they are not subject to the rule
- Owner-employees of S Corps who receive wages may be subject to the rule
- Plan sponsor may elect to use a broader definition of common law employer by including compensation if using a common paymaster or compensation from other entities within a controlled group

SOME OTHER INTERESTING OPERATIONAL RULES

- Deemed Roth contributions
 - Plan may provide that a participant is deemed to have designated a CUC as a Roth contribution
 - Participant must be given an effective opportunity to make a different election (i.e. an opportunity to stop CUC)



SOME OTHER INTERESTING OPERATIONAL RULES

- Deemed Roth contributions

EXAMPLE: In 2026, Harry, a participant subject to the Roth CUC rules, contributes \$10,000 of Roth deferrals and \$14,500 of pre-tax deferrals. Harry also elects to make a \$8,000 pre-tax CUC. The plan has a deemed Roth contribution election provision.

Since Harry already contributed more than \$8,000 in Roth deferrals, the plan may substitute as the Roth CUC, the Roth deferral.



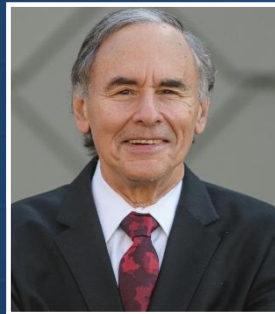
SOME OTHER INTERESTING OPERATIONAL RULES

- Correcting failures
 - Occurs when a pre-tax CUC is made by a participant who is subject to the Roth CUC rule
 - Correction may be made by transferring the deferral to a Roth account and reporting it on the participant's W-2 as a Roth contribution
 - The alternative correction is treating it as an in-plan Roth rollover and reporting it as such on a 1099-R



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THANK YOU



Charles M. Lax, Esq.

Shareholder

(248) 827-1877

(248) 359-6177 Fax

clax@maddinhauser.com



Maddi Hauser
Attorneys and Counselors

Maddin, Hauser, Roth & Heller, P.C.

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