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Matching Contributions on Student Loan Repayments Under SECURE 2.0

Summary as of August 4, 2023

Student loan debt can often limit an employee's ability to contribute to a workplace retirement plan, causing these employees to miss out on Employer matching contributions. A new provision under SECURE 2.0 aims to benefit these employees by permitting Employers to treat an employee's qualifying student loan payments as if they were elective deferral contributions for purposes of the plan's matching contribution. If elected by the Employer, employees in plans that offer this new student loan match benefit will be able to receive the Employer match, even if they don't contribute to the plan directly. This provision becomes effective in 2024 and applies to 401(k), ERISA 403(b), governmental 457(b) plans, and Simple IRAs. It may be particularly attractive to Employers that are already offering an Employer match and have a workforce with a significant amount of student loan debt. You can only take advantage of this provision if your Plan already has an Employer match, or it is amended to add one.

IRS guidance is still needed before a student loan match program can be successfully implemented. Our goal in this notification is to make our Plan Sponsors aware of this provision, but also to recommend that you wait until all the technicalities are worked out before implementation. Once further guidance and logistics are available, we will be ready to provide recommendations for your specific Plan needs.

Historical Perspective

Millions of Americans are impacted by student loan debt. It's not just young people who are affected – workers of all ages have student loan debt, either from loans they took out for themselves, or ones they took out for their children. Statistics show that over 25% of participants opt out of 401(k) plans because of student debt. That decision has a significant impact on retirement accumulation over time.

A student loan match program was originally introduced by a company called Abbot Labs in 2018 – they requested and received a Private Letter Ruling (PLR) from the IRS that enabled them to provide employer non-elective contributions for their employees who were not able to financially afford to make 401(k) elective contributions because of their student loan obligations. Implementing a program in accordance with the Abbott Labs PLR was complicated, subject to testing, and not considered a true "match" for plan purposes. SECURE 2.0 alleviates many of these complications by allowing for a true match on student loan payments.

Changes Permitted Under SECURE 2.0

SECURE 2.0 amended the definition of Employer matching contributions to include Employer contributions made to qualified plans on account of qualified student loan payments. A student loan payment is considered qualified if it is made by the employee to repay a loan for:

- the employee,
- the employee's spouse, or
- any dependent of the employee when the loan was incurred.

Expenses include tuition, fees, and books for a student enrolled at least half-time (6 credit hours).

There are several technical and operational provisions that are part of these new rules, that will take time for Employers, Third Party Administrators, and Recordkeepers to implement, including the following:

- For match purposes, the amount repaid as a student loan payment is part of the 402(g) limit, so both loan repayments and 401(k) elective deferrals can't in combination exceed the annual limit (currently \$22,500 plus \$7,500 catch-up if over age 50).
- If a participant is making both elective deferrals and paying off student debt, there will be an offset of the employer's loan-related matching contributions by any match made on behalf of pre-tax or Roth elective deferrals. If the participant is making elective deferrals and has capped out on his match, then he would not qualify for a second match on student loan payments.
- **Matching contributions for student loan payments cannot be made until after the close of the year and only after the employee has submitted a self-certification of the payments (due within 3 months of the close of the year).** Employers are not required to conduct an independent review of the certification. For companies doing a per pay match, the student loan match will be on a different basis.
- Loan repayments can be treated as deferrals for purposes of a Safe Harbor Match plan without impacting the plan's Safe Harbor status.
- The rate of the match, the eligibility rules and vesting schedule for the match must follow the same rules as for matching contributions made on elective deferrals. For example, if you are offering a 50% match up to 6% of pay and it is subject to 3-year cliff vesting, those same rules will apply for the match on student loan payments.
- There will be separate compliance testing for plans that offer this new program so it should not adversely affect the plan's ADP/ACP testing.

There are several questions that remain regarding this new option, where IRS guidance will be necessary:

- Will Employers be permitted to exclude certain categories of employees if desired, e.g. Union employees, or Highly Compensated Employees.
- Can Employers use a narrower definition of student loan payments?
- Can Employers impose more stringent documentation requirements on employees?

- Is there overlap with Federal student loan forgiveness that makes this program less attractive?
- Guidance is needed for terminated participants who terminate employment prior to certifying their student loan repayment, particularly for Safe Harbor plans that cannot impose a last day of employment requirement for match eligibility.
- How will this program impact the testing deadline for the ADP/ACP test, given that the deadline for certifying loan repayments is two weeks after the regular testing deadline?

Once further guidance and logistics are available, we will be ready to provide recommendations for your specific Plan needs.