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Suspending Employer Contributions Midyear

Today's economic environment has some retirement plan sponsors looking at options to reduce or suspend their employer match or other contributions. To find out what steps the Internal Revenue Service (IRS) has outlined for reducing or suspending safe harbor, discretionary, and fixed match and nonelective contributions, read on.

In this unprecedented economic environment, many plan sponsors are looking at options regarding their employer contributions and their ability to reduce or suspend their match or other contributions if necessary. Fortunately, the Internal Revenue Service (IRS) has outlined the steps that need to be followed depending upon the type of employer contribution a plan utilizes.

Safe Harbor Contributions

Plan sponsors using a safe harbor matching provision have the ability to reduce or suspend contributions if they meet one of the following criteria:

Either (1) the plan sponsor must be operating under an economic loss as defined under IRC 412(c)(2)(A) for the year; or (2) the plan sponsor annual safe harbor notice specifies the right to suspend or reduce contributions midyear.

In addition, the plan sponsor must provide a supplemental notice regarding the reduction, suspension, and stipulations indicating contributions will not be stopped or reduced for 30 days after receipt of the notice.

The supplemental notice must explain the consequences of the suspension or reduction of contributions, how participants may change their elections should they wish to do so, and when the amendment takes effect.

It's important to note that contributions must be made through the effective date of the amendment. In addition, ADP/ACP testing must be completed for the entire plan year, and the plan will be subject

to top-heavy rules.

A plan with a safe harbor nonelective contribution must meet the same criteria and follow the same steps in order to suspend or reduce contributions and is obligated to contribute 3 percent of an eligible participant's compensation through the effective date of the amendment.

Discretionary Contributions

Employer discretionary match and nonelective contributions can be stopped at any time. A plan amendment is not needed. In addition, no formal participant notices are required. However, it is strongly recommended that a detailed communication be sent to all eligible participants and that time be given to allow them to make any deferral changes.

Fixed Match and Nonelective Employer Contributions

A plan with a fixed match or fixed employer contribution must be formally amended to remove provisions that describe the fixed contribution. The amendment must be made on a prospective basis. For example, for a plan year beginning January 1, 2020, an amendment could be effective May 1, 2020, to stop a fixed employer contribution. A contribution is still required to be made through the effective date of the amendment if the plan's allocation conditions have been met. Also, disabled, deceased, or retired participants will receive a contribution if allocation conditions are waived for them.

Formal advance notice is not required but strongly encouraged to provide adequate time for participants to make deferral changes before the changes take effect. As always, we recommend you seek legal counsel to assist in your decision-making process and work with your recordkeepers to determine what steps are needed for you to execute any changes you may need to make to your retirement plan.

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