AssuredPartners
FINANCIAL SERVICES

The COVID-19 (Coronavirus) Outbreak and Your 401(k)

At AssuredPartners, we're in the people-business; the business of cementing powerful, lasting relationships with you, our insurance clients. Our relationships are built on trust that we earn everyday by working openly and honestly with you as partners to achieve common goals. The goal on nearly everyone's mind is limiting the spread of COVID-19 (coronavirus) around the world and thoughtfully addressing the economic-challenges caused by this pandemic.

This is first and foremost a health crisis, and our thoughts go out to those who have been directly affected by the virus in their communities and to the health care workers who are on the frontlines in managing it. However, you are also facing the very real economic effects of this pandemic today. AssuredPartners in pleased to provide this FAQ to help answer some of the questions you may be working through regarding your 401(k).

If you would like to connect with an investment advisor to discuss specific questions, please reach out to your local AssuredPartners office and we will connect you with an investment advisor representative to answer your questions.

Frequently Asked Questions

Can we change or stop the employer-match?

Before proceeding, you should consult your plan documents to determine which type of match your plan currently provides. In general, employer-match contributions to 401(k) plans take one of two forms, discretionary matching contributions and safe harbor matching contributions.

For discretionary matching contributions, reducing or eliminating the matching contributions does not generally require an amendment to the plan and is, therefore, a relatively simple matter. The primary concern is adequately communicating the changes to plan participants. If the plan documents require an amendment, for example if the discretionary match is a specific formula, then the plan can be amended. process can take 30 to 60 days depending upon your provider and required notification to your employees.

For safe harbor matching contributions, generally, an employer may not suspend or reduce safe harbor contributions midyear. There are two exceptions. The first applies to an employer that is operating at an "economic loss." Under the second exception, an employer must have included in the annual safe harbor notice, which is required to be delivered to employees, a statement that the plan may be amended in the upcoming year to suspend or reduce safe harbor contributions and that the suspension or reduction will not apply until at least 30 days after all eligible employees receive a supplemental notice of the suspension or reduction. If you plan to access either of these exceptions, you will want to work closely with an experienced investment advisor representative and/or ERISA attorney.

What is impact to our plan should we terminate or furlough employees?

A partial plan termination is determined after the end of the year if your eligible population changes by 20% or more. As such, the impacted population would have an accelerated vesting event meaning this group would be 100% vested rather than follow any vesting schedule in place. Please note, the above commentary are general guidelines, please consult your individual plan document or contact your recordkeeper for additional information.

Is a furloughed employee eligible for a distribution from the plan?

While this can be considered a “grey area” in the IRS regulations regarding Retirement Plans & Furloughs. Generally speaking a furlough is not considered a separation of service or a distributable event especially if there is an expectation that the employee will return in the future should conditions improve. This type of determination may require the assistance of ERISA counsel.

Does the coronavirus emergency qualify for a hardship withdrawal?

Perhaps, depending on the circumstance, but probably not yet. The IRS recently added federally-declared disasters to the list of safe harbor financial needs, and many plans have been amended to include this. The president’s declaration of a national emergency, however, is not the same as a declaration of a disaster. The president could make a further declaration. Or, as in the past, the IRS could create a temporary safe harbor for this specific situation. Even without these additional actions by the president or the IRS, the coronavirus could lead to one or more other safe harbor financial needs or, if the plan permits, other immediate and heavy financial needs. This would depend on the terms of the plan, and the facts and circumstances of the particular situation.

What impact does a furlough have on participant loans?

Employers have already begun to furlough employees as opposed to terminating employment. IRS regulations discuss the impact that a furlough has on participant loan requirements. Employees with plan loans who are placed on unpaid leave of absence may forego making loan payments during the leave of absence without triggering taxation of the loan as long as the following requirements are met:

1. The furlough cannot exceed 1 year; and
2. The loan must be repaid by the end of the original term of the loan. The missed payments that occurred during the furlough can be later repaid by continuing the original payment schedule, with a larger balloon payment of the missed installments at the end of the original loan term, or by increasing the payments upon reinstatement during the remainder of the loan repayment period. Please note, special consideration should go into examining a participant case where the furlough begins in extreme proximity to the end of the original loan term.

Can participants stop making 401(k) loan payments?

Yes, plans often allow participants to suspend loan payments temporarily during temporary layoffs and other unpaid leaves of absence, but this will not extend the maximum allowable period for repaying the loan (which is usually five years). When the participant returns to work, the loan payments will resume and either (i) the missed payments will have to be caught up by making additional payments or (ii) the remaining payments will have to be recalculated to pay off the loan during the remaining repayment period.

Can the plan waive a limit on the number of 401(k) loans?

Yes, plan sponsors can often waive the limit on the number of loans, but the plan cannot increase or waive the maximum amount participants may borrowed. Many plans limit the number of loans that can be requested during a period of time or a limit on the total number of loans that can be outstanding to a participant at any particular time. The plan may not want to increase these limits permanently, but the plan may increase them temporarily.

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