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Employee Benefit Plan Review

Current Considerations for Future Retirement Plan Designs

By Ron M. Pierce

Under SECURE Act 2.0, plan sponsors have many options for customizing their retirement plans. Many of these provisions become effective in 2024 (which will be here before we know it!), and plan sponsors should be having plan design discussions now.

Those plan design discussions should include at least the following issues:

- Emergency savings accounts;
- Student loan repayments;
- Participants' rights to designate matching contributions as Roth;
- New catch-up contribution limits for those 60-63 years old;
- Financial incentives to employees electing plan participation; and
- Starter 401(k) plans.

Emergency Savings Accounts

Employers have the option to allow non-highly compensated employees access to funds to help with emergencies. These accounts are separate and apart from the regular retirement funds in the plan. Up to $2,500 (as determined by the plan sponsor) may be deposited and withdrawn in the participant's discretion. The participant will not be required to provide proof of the emergency.

These "pension-linked emergency savings accounts" will consist of post-tax Roth contributions. Investment alternatives will be limited and designed to preserve the principal contributions. Plan sponsors may decide to match these contributions.

Plan sponsors will need to weigh whether the benefits to participants outweigh the additional administrative steps associated with these accounts. While the third-party administrators will be able to assist with much of that burden, plan sponsors will still need to evaluate whether this feature will be seen by participants as important and useful.

Student Loan Repayments

Employers now have the ability to design their plan to allow certain qualified student loan repayments to be treated as a salary deferral to a 401(k) or 403(b) plan. Employees will certify that the repayments qualify for this treatment and the plan sponsor can rely on those representations. Employers will be able to make matching contributions on amounts used to pay off the loans.

Employers need to analyze the financial impact this would have on their plan expenses, and they should ask themselves if it would increase the amount of the matching contributions.

Participants' Ability to Designate Employer Contributions As Roth Contributions

A plan has the option to permit participants to treat employer matching contributions under the Roth rules. If the participant elects this treatment, the contributions will be included in their current income. However, earnings on these Roth contributions will be tax free upon distribution of the account.

Implementing this provision will require modification of payroll and third-party administrative systems. Plan participants also will need to receive appropriate notices outlining the impact this decision will have on their financial and tax situation.

Higher Catch-Up Contribution Limits for Participants Ages 60 to 63

Participants who are between 60 and 63 years old will now have the ability to contribute higher catch-up contributions. Starting at age 60, a participant can make a catch-up contribution of up to the greater of $10,000 or 150% of the regular catch-up contribution limit for 2024 (as indexed).

Plan sponsors who match these catch-up contributions will need to calculate the incremental impact on their plan expense budget.

Financial Incentives

To encourage employees to become plan participants, plan sponsors are now allowed to provide small financial incentives. These incentives are paid for by the employer (not the plan) and go directly to the new participant.

Employers will need to evaluate whether offering these incentives will further their goal to increase plan participation. It may especially benefit plans struggling to meet nondiscrimination testing. An increase in the participation of non-highly compensated employees may provide the solution to passing those tests.

Starter 401(k) Plans

Starter 401(k) plans require:

- Coverage for all employees (with limited exceptions);
- Auto enrollment equal to at least 3%;
- Contributions of elective deferrals only; and
- Lower elective deferral and catch-up limits than a regular 401(k) plan.

As states continue to implement mandatory retirement programs, employers need to analyze whether it would be better to sponsor their own retirement plans. The Starter 401(k) plan makes sponsoring an employer plan more attractive.

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