

Retirement Plan Issues Relating to the Economic Impact of Covid-19

Everyone at Trombino Pension Administrators, Inc. hopes that you, your family, and your co-workers are all safe and healthy during this unprecedented time.

I also wanted to share with you what I think are a couple of important current retirement plan issues.

Please note that the information that I will provide here describes current regulations and guidance. There are many industry groups working with the DOL and the IRS to provide relief for plan sponsors and plan participants affected by the crisis. What that relief, if any, may look like is difficult to say, but please watch for further updates as more information becomes available.

Partial Plan Terminations

Many states are requiring “non-essential” businesses to close and “non-essential” workers to remain in their homes as much as possible, creating a significant spike in unemployment. Under current regulations, the IRS considers an employer action that results in the termination of at least 20% of the plan’s participants to be a presumption that a partial plan termination has occurred. In general, if there is a partial plan termination the affected participants must be made 100% vested regardless of the plan’s vesting schedule and the participants’ service.

Again generally speaking, a partial plan termination is determined on a plan year basis. In light of current events, and without any additional guidance at this time, one strategy might be to forfeit any unvested funds at the time of distribution as determined under the provisions of the plan, but be certain to leave those funds in the forfeiture account so they can be paid out to the participant if it is determined the distribution was part of a partial plan termination.

Employee Terminations, Layoffs, and Furloughs

A participant’s employment status will dictate the distribution options that may be available to them.

Most retirement plans allow a terminated participant to request a distribution at any time.

A participant that is still considered to be an employee of the plan sponsor is generally limited to any in-service distribution options the plan may allow. For example, the plan may allow a participant to request a distribution upon the attainment of a certain age, or under certain hardship rules. Additionally the plan may allow for a participant to request a loan from the plan.

Due to the crisis, some employers have, or are considering, furloughing or temporarily laying off employees, rather than outright termination. An employee who is treated as being on an unpaid leave may have limited distribution options from their plan account. On the other hand, many plans allow a participant on an unpaid leave to suspend their loan payments for up to 12 months.

It is important that a participant's employment status is correctly identified before any plan distributions are requested. Please contact our office if you or your participants have any questions on distribution options available under your plan.

Discontinuing Employer Contributions

Please let us know if you are thinking of discontinuing any employer contributions that you may be making, such as an employer match.

It is especially important to discuss with us if you are currently making safe harbor 401(k) contributions. I will be sending a separate notification to our safe harbor 401(k) clients that will discuss stopping safe harbor contributions mid-year.

Types of Relief being sought

As mentioned earlier, industry groups have already begun requesting relief for plan sponsors and plan participants. Relief being sought includes an extension of various deadlines including Form 5500 filing, contribution deadlines, and plan document restatement deadlines, the waiver of RMD rules for 2020, elimination of the 10% penalty on early withdrawals, allowing participants to repay certain plan distributions, increasing loan limits, and easing loan default rules.

It is expected that Congress, the IRS, and the DOL will provide some relief, but the form of the relief and how quickly it will be available is not known at this time.

We will continue to monitor any changes in legislation or formal guidance and provide you with any updates.

Again, everyone at Trombino Pension Administrators, Inc. wishes you the best, and please let me know if you have any questions or would like to discuss any of the information provided here in more detail.

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