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COVID-19's Impact on U.S. Retirement Plans

Business leaders face an array of questions they need to answer and information they must analyze during the rapidly evolving response to the COVID-19 pandemic.

While decisions about safety and business operations are obviously top priorities now, plan sponsors still must maintain compliance for their retirement plans. We are here to help you navigate these decisions. We address three of the most immediate questions that companies should be considering related to their retirement plans.

Will the Department of Labor and/or Treasury delay filing deadlines?

As of March 27, filing deadlines for retirement plan documents haven't been delayed. While President Trump has declared a nationwide emergency, no subsequent guidance or relief has been issued by the Department of Labor (DOL) or the Treasury Department, which oversees the Internal Revenue Service (IRS).

Historically, departments have issued guidance and postponed deadlines during natural disasters, such as Hurricanes Irma and Maria in 2017. The IRS has broad authority to postpone certain deadlines after the president declares a disaster.

On March 16, the **American Retirement Association** (ARA) issued a letter asking the Treasury Department and DOL to push upcoming deadlines, including:

- Extend Form 5500 deadlines to October 15 for calendar plan years (and similar extensions for non-calendar plan years)
- 90-day extension for failed ADP or ACP testing and a similar extension for distributing excess contributions without the 10% tax penalty
- 120-day extension for defined benefit plan reinstatement (currently April 30, 2020)
- 90-day extension for 1099-R e-filings for employers (currently March 31, 2020)
- Reasonable relief from required plan participant notices

Insight: We are closely monitoring the situation and will issue an alert to plan sponsors if filing deadlines change. Until then, plan sponsors should prepare to meet the current requirements.

Can plans reduce or eliminate matching contributions?

Reducing or eliminating matching contributions may seem like an immediate way to reduce cash outflows. But plan sponsors need to examine their plan documents to determine whether changes can be made, and the requirements related to such decisions.

In general, plans can reduce or eliminate discretionary non-elective and discretionary matching contributions without needing to amend plan documents. If a company decides to do this, however, it is important to have a thoughtful strategy for how to communicate these changes to employees.

Many plans operate as Safe Harbor 401(k) plans, which waive certain nondiscrimination testing requirements. The safe harbor match can be reduced or eliminated only if (1) the plan sponsor is operating at an economic loss, or (2) the annual safe harbor notice includes a statement that reserves the right to change the contribution schedule midyear. Satisfying one of these options still comes with a few strings attached:

- Participants must receive a notice 30 days before the effective date of the change and be given a reasonable timeframe to change their deferral amount
- The plan loses its safe harbor status for the year and must undergo nondiscrimination ADP/ACP testing

Insight: Plan sponsors need to carefully consult their plan documents to understand their options for potentially reducing or eliminating matching contributions, as well as the process and timing requirements for such decisions. In terms of depositing employee contributions, plan sponsors should keep to their regular schedule; failure to do so may result in severe penalties.

Is cybersecurity still a high-priority consideration for plan sponsors?

Absolutely; retirement plan communications contain highly sensitive information. As more people are working from home, cyber criminals see this as an opportunity to access sensitive data through phishing emails and exploit gaps in remote technology systems. The Cybersecurity and Infrastructure Security Agency (CISA) issued a **warning** for people to be aware of cyber scams related to COVID-19. CISA also offered **recommendations** for organizations with employees working offsite.

We're Here to Help

Plan sponsors face many weighty, complex decisions related to the COVID-19 pandemic, and we recognize that retirement plan oversight is just one small part of a company's responsibilities. We are committed to keeping you updated on the rapidly evolving flow of news and regulations related to retirement plans.