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Mixing Student Loan Assistance and 401(k) Plans

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Student Loan Assistance and 401(k) Plans – Oil and water. These two benefits have not mixed well due to the complex tax rules governing 401(k) plans. In a welcome ruling (PLR 201833012), the IRS approved a taxpayer's plan to make "matching contributions" to a 401(k) plan based on **either** student loan repayments **or** elective deferrals to the 401(k) plan.

Employer-provided student loan assistance has been a hot topic recently thanks to an increasingly tight labor market and record levels of student loan debt. Employer assistance has, to date, largely been comprised of refinancing referrals and providing other consultative services to employees. If the employer matches or otherwise provides debt repayments on behalf of an employee, those payments are treated as additional taxable wages to the employee.

While private letter rulings may only be relied upon by the taxpayer subject to the letter, the ruling provides a framework for employers to make the student loan match on a pre-tax basis by integrating it into a matching formula under a 401(k) plan. Employees strapped with student loan debt often cite the loan repayments as the reason they are unable to participate in a 401(k) plan. Those employees may be missing out on matching contributions made by the employer under the plan. The ruling effectively allows the employer to treat student loan repayments as if they are elective deferrals to the 401(k) plan for purposes of calculating the employer match to the plan. This provides flexibility to the employee and a potential incentive to pay down the debt faster. The employer is able to match on a pre-tax basis (and avoid the employer-portion of FICA) and limit financial exposure through the matching formula in the 401(k) plan.

While the ruling provides helpful guidance, it raises a number of administrative and compliance issues that must be considered with these programs – e.g., tracking loan repayments made by employees, compliance with nondiscrimination requirements, and plan document considerations.

For more information on this development, contact a member of Holland & Hart's Benefits Law Group.

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