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401(k) Student Loan Benefits Still Around the Corner for Most

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You would have to be hiding under a rock not to have heard that student loan debt in the United States is a runaway train. Millennials reportedly rank student loan assistance as an employee benefit that would not only attract them to one employer over another, but would keep them there. Employers are looking to their advisors to come up with affordable programs to meet the needs of their current and prospective millennial employees. The Internal Revenue Service (IRS) recently gave employers and their advisors hope that attractive, affordable student loan debt assistance programs are just around the corner.

On August 17, 2018, the IRS published a private letter ruling (PLR) that it had issued in May to the sponsor of a defined contribution plan, reported to be Abbott Laboratories (Abbott). As described in the PLR, Abbott sponsors a defined contribution 401(k) plan that provides that if participants make elective contributions equal to at least 2 percent of their eligible compensation, Abbott makes a matching contribution equal to 5 percent of their eligible compensation.

Abbott proposed to amend the plan to provide an employer nonelective contribution on behalf of any employee who volunteers to participate in the plan and who makes student loan repayments for the pay period that are equal to at least 2 percent of eligible compensation, regardless of whether the employee makes elective contributions. Abbott proposed to make a contribution after the end of the plan year equal to 5 percent of the employee's eligible compensation for that pay period. If, on the other hand, an employee did not make student loan repayments in the required amount, but made elective contributions equal to 2 percent of their eligible compensation, then Abbott would make a matching contribution after the end of the plan year equal to 5 percent of the employee's eligible compensation.

To be eligible for either of the contributions, the employee must be employed on the last day of the plan year. Abbott confirmed that all employer contributions would be subject to the same vesting schedule as regular matching contributions under the plan, as well as to all qualification requirements regarding eligibility, vesting, distribution, contribution limit, and nondiscrimination testing.

The IRS approved the proposed amendment, and Abbott announced the program in June 2018. Abbott's press release about the program and the subsequent publication of the PLR has launched numerous articles proclaiming there is now an answer for employers' searches to assist their millennial employees with their student loan debt burden. Employers, however, should be cautious.

This PLR, and every other private letter ruling, contains the caution that the letter is directed only to the taxpayer requesting it, and that, by law, it cannot be relied on or cited as precedent by any other taxpayer. In any event, the PLR did not specifically address two circumstances in which many plan sponsors find themselves—adopting preapproved plans and/or sponsoring safe harbor plans.

Plan sponsors will want to keep their eyes open for any generally applicable guidance from the IRS regarding student loan debt programs. Let your trusted advisors know to keep such guidance on their radar for you. For now, there is reason to hope, but no reason to amend your plan, based on this PLR.

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