

FREQUENTLY ASKED QUESTIONS

EMPLOYER & EMPLOYEE PROFIT SHARING PLAN CONTRIBUTIONS

Q: May an employee, currently participating in elective 401(k) deferrals, change the amount of their election in response to COVID-19?

A: The plan document defines instances where an employee can change their 401(k)-withholding election; therefore, it is advisable to refer to your plan document.

Generally, a Plan Administrator is allowed to establish uniform procedures for changing salary deferral elections. The operative word here is “uniform.” Whatever the employer decides to allow, he/she must allow it for all affected employees.

A change by the employee to reduce the 401(k)-deferral election may provide some additional liquidity to the employees in the short run; however, note that they may be forgoing or reducing the amount of their employer safe harbor matching contribution if they elect to reduce their 401(k) withholdings.

Q: For an employer, what are the rules for the timing of payments of the employer safe harbor matching contributions?

A: To provide current liquidity, the employer matching contributions can be deferred as long as paid to the Plan by the filing due date of the employer’s annual income tax return, with extensions. For example, the 2020 employer matching contributions can be delayed until the employer’s tax filing date in 2021.

The IRC (Internal Revenue Code) basically says that all employer contributions must be deposited on or before the due date of the employer’s corporate tax return, with extensions. This includes any matching and/or profit-sharing contributions.

EMPLOYEE BENEFITS

Q: If an employee’s daycare is closed due to the COVID-19 pandemic, and he/she is not paying daycare expenses, can he/she stop a dependent flexible spending account deduction?

A: Yes. The cost change to \$0 is considered a qualifying event. The employee needs to notify you in writing to stop the deductions and include the pay date that it is effective (email is sufficient or using a company-provided change form). When the childcare provider reopens, he/she can start their deductions back, but again would need to notify the employer in writing. If you are using a third-party administrator for your FSA, it will be important to notify them as soon as possible when these changes occur.