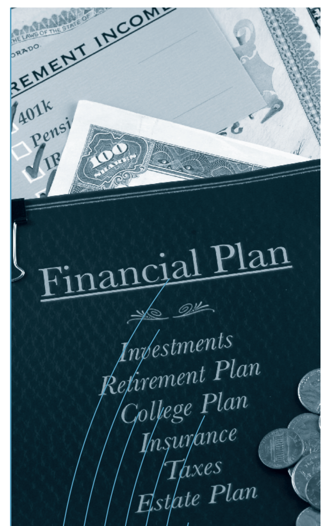
Retirement Plan Sponsor Frequently Asked Questions



Can I reduce, suspend or eliminate my employer contribution for the year?

It depends on whether your plan document requires mandatory contributions to be made or whether the plan document allows for discretionary contributions. Generally, discretionary contributions can be stopped or suspended at the employer's discretion; however, mandatory contributions such as safe harbor match and safe harbor non-elective contributions have special rules for stopping or suspending them mid-year. If you need to give serious consideration to suspending your safe harbor contributions, please contact us at HBKS Wealth Advisors and we will work with you and the appropriate administrative firm servicing your plan to determine feasibility. Under adverse business conditions safe harbors can be suspended with a 30-day notice.

Can my employees suspend or reduce their deferral contributions for the year?

Most plans have administrative procedures written into the plan document that dictate how often employees can change their deferral elections and most plans allow an employee to stop deferral contributions at any time. You will want to document your employee's change in deferral election to keep with your permanent plan files. You can also generally change your administrative procedures at any time to allow for more frequent deferral election changes if you provide notice to your plan participants of the change.

How can my employees access their plan assets if needed in the event of a COVID-related hardship?

In-service distributions — This is a distribution paid directly to or rolled over to another qualified plan, including individual retirement accounts, for participants who are still actively employed by the plan sponsor. Some plans permit in-service distributions for participants as early as age 59½. Others have a normal retirement date set for an older age such as age 65. We can help you determine what the in-service distribution age is for your plan. Please contact your administrative firm or HBKS® directly.

Hardship distributions — Many plans permit hardship distributions to employees under certain statutory circumstances that constitute immediate and heavy financial need. These could include medical costs, payments required to prevent eviction or foreclosure, or cost attributable to qualified federal disasters. Your administrative firm or HBKS® can help you determine if your plan currently offers hardship distributions. Importantly, traditional hardship distributions are subject to income taxes and potentially the 10 percent penalty if distributions are taken prior to age 59½.

CARES Act Coronavirus-related distributions, special provisions — The recently passed CARES Act waives the 10 percent penalty on withdrawals from qualified retirement plans up to $100,000 for an individual who meets the following requirements:

- Is diagnosed with COVID-19;
- Whose spouse or dependent is diagnosed with COVID-19;
- Experiences adverse financial consequences as a result of:
  - Being quarantined, furloughed, laid off, having hours reduced.
  - Being unable to work due to lack of childcare due to COVID-19.
  - Closing or reducing hours of a business owned or operated by an individual due to COVID-19.

Individuals have the option to pay income taxes on the income from the distribution over a three-year period or repay the amount back to the plan — tax-free — over a three-year period. Repayments are not subject to the contribution limits.

Plan loans — If the plan allows for loans, participants can borrow against their plan assets and pay the loan back via payroll deduction. Traditionally, these loans have been a maximum of $50,000 or 50 percent of the participant's vested account balance. Again, as a result of the CARES Act, participants with plans that offer loan provisions now can borrow the lesser of $100,000 or 100 percent of the participant's vested account balance. The act also allows participants with outstanding loans to delay any loan payments due during the balance of 2020 for up to one year. To qualify a participant must meet the same criteria as previously outlined for COVID-related distributions.

Q. Do I have to continue to meet the DOL payroll deposit timing rules that apply with respect to employee deferrals and loan repayments?

A. Yes. The current crisis does not reduce the plan sponsor's fiduciary obligation related to depositing employee contributions in a timely manner. Further, the recently passed CARES Act did not provide any relief in this area, and so the Department of

Labor regulations remain in place. These regulations require plans with fewer than 100 participants to deposit employee deferral and loan repayments no later than 7 business days after the payroll date and large plans to deposit deferrals and loan repayments as soon as possible. Notify your record keeping firm and third-party administrator immediately if there are circumstances beyond your control that prevent you from making timely deposits. You can of course feel free to contact your representative at HBKS® as well. You will want to thoroughly document the situation in case of audit.

Q: Are employees allowed to suspend their retirement plan loan payments during this time?

A: Under normal loan rules, employees who are on a bona fide leave of absence can suspend their loan repayments for up to one year provided the loan does not go past the original 5-year maximum maturity date. Interest continues to accrue while payments are suspended.

As noted above however, participants with current, outstanding loans can delay any loan payments due during the balance of 2020 for up to one year. However, in order to qualify for this suspension of payments the participant must meet the same criteria as outlined above under COVID-related distributions.

Q: I have had to lay off several employees, now what?

A: Generally, a layoff is considered a termination of employment and terminated employees have access to distributions from their retirement plan. In addition, if you lay off more than 20 percent of your workforce a partial plan termination may occur where all affected participants must become 100 percent vested in their retirement accounts.

Q: What happens if I hire back an employee I had to lay off?

A: Generally, if the eligible employee had already satisfied the eligibility requirements, the employee must re-enter the plan on the later of (1) the entry date on which they would have entered the plan had there been no severance of employment or (2) the date of their re-employment unless the break in service rules apply.