

Employer Paid Student Loan Relief For 2020

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On March 27, 2020, the President signed the *Coronavirus Aid, Relief, and Economic Security Act* ("CARES Act"). Tucked away in the three trillion dollar package, the CARES Act provides a limited window for employers to provide tax-free payments on their employee's student loan debt. Specifically, section 2206 of the CARES Act provides for an exclusion for certain employer payments relating to employees' student loan debt principal and interest in 2020. Details on the payments follow.

The Program

Employers that already have an educational assistance program under Internal Revenue Code section 127 are halfway there. The CARES Act relief permits an employer to amend its 127 plan to allow for the direct payment to the lender, or payment to the employee, to pay/reimburse principal and interest payments on a "qualified education loan" incurred by the employee for education of the employee. For this purpose, a qualified education loan is defined as a loan incurred by the employee to pay higher education expenses (tuition, textbooks, fees, etc.) for an eligible student (generally defined to mean a student in a degree or certificate program and carrying at least ½ the normal full-time course work load for the course of study). This includes refinanced loans. Notably, however, this does not appear to extend to education loans for an employee's spouse, dependents, grandchildren, etc.

This expansion of the 127 plan is optional. However, if elected, the employer must notify employees of this change in the program. Moreover, employees cannot have the choice between getting (1) cash or other taxable wages/benefit and (2) the student loan benefit. The program cannot be offered as part of a cafeteria plan. The program also cannot discriminate in favor of highly compensated employees (Code section 414(q) definition, as applies to qualified

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plans, generally \$125,000 or more in 2019 or a 5% owner). There is also a 5% limit on how much can be paid to shareholders and owners.

On the plus side, these programs are not considered ERISA plans, so there is no funding requirement for this benefit, and the plan can be eliminated at any time.

The Tax Benefit

Code section 127 educational assistance programs can provide up to \$5,250 of tax-free payments for education expenses. These expenses now include student loan payments through the end of 2020. Notably, this is a single individual limit for the employee, regardless of the number of his/her employers that have such programs. Employers can also provide the tax-free payments to former employees, such as those who retired, left on disability, or were laid off.

Next Steps

Employers looking to provide any of its workforce tax-free assistance with student loan debt should check and see if they have an existing 127 education assistance plan. If a 127 plan is in place, consider expanding the program for 2020 to assist with student debt repayments and notifying employees of the benefit. For employers that do not already have a 127 plan, consider adopting a written program for 2020, which can be limited to just repayment of student loans. These programs are relatively easy to install.

This CARES Act relief gives employers the ability to provide up to \$5,250 tax-free repayment of student loans for employees. Notably, as long as the classification does not favor HCEs, the benefit can be limited to, for example, front-line COVID-19 responders, essential workers during COVID-19, etc. Payments can be made directly to the lender (or to the employee, for example, upon documentation of loan repayments).

Ideally, Congress will extend this relief beyond 2020, but for now consider how this valuable student loan benefit may be offered to your employees burdened with student loan debt.

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