**IRS Practitioner Panel**

**February 24, 2023**

**SECURE 2.0 – Section 110 Treatment of Student Loan Payments as Elective Deferrals  
for Purposes of Matching Contributions**

**Background**

* Applies to 401(a), 403(b), SIMPLE, 457(b) plans
* Adds a new definition of “qualified student loan payment”:
  + “a payment made by an employee in repayment of a qualified education loan (as defined in section 221(d)(1)) incurred by the employee to pay qualified higher education expenses, but only—

(i) To the extent such payments in the aggregate for the year do not exceed an amount equal to—

(I) the limitation applicable under Section 402(g) for the year (or, if lesser, the employee’s compensation (as defined by section 415(c)(3) for the year), reduced by

(II) the elective deferrals made by the employee for such year, and

(ii) if the employee certifies annually to the employer making the matching contribution under this paragraph that such payment has been made on such loan.”

* An employer contribution made to a defined contribution plan is treated as a matching contribution if (i) the matching contributions on qualified student loan payments are at the same rate as elective deferrals, (ii) only employees eligible for elective deferrals may receive the matching contributions on account of qualified student loan repayments, (iii) all employees who are eligible to receive matching contributions on account of elective deferrals are eligible to receive matching contributions on account of qualified student loan payments, and (iv) vesting is the same for matching contributions on account of elective deferrals and qualified student loan payments.

**Questions/Comments**

* Does this apply to parents who incurred a loan for a child to go to college?
* Does this apply for a parent who is repaying loans in the name of their child?
* What, if any, diligence does employer need to do to confirm employee is making qualified student loan repayments in the amount certified?
* Can an employer require evidence beyond a certification from an employee that the employee is making the repayments?
* What is the correction if the employer discovers the employee was not making qualified student loan repayments or discovers the amount that the employee certified as a qualified student loan repayment was incorrect?
* Can the same loan repayment be used for matching contributions in multiple plans (*e.g.*, employee has 2 jobs or employee and spouse have consolidated student loans)?
* Can the employer limit the participating group (*e.g.*, only students, only new hires)?
* The statute directs the Secretary of the Treasury to prescribe regulations “permitting employers to establish reasonable procedures to claim matching contributions, including an annual deadline (not earlier than 3 months after the close of each plan year) by which a claim must be made.” How will this deadline work for refunds of excess contributions? Most plans distribute excess contributions by March 15.
* Under the statute, plans may treat participants who receive matching contributions separately for ADP testing. There is some concern that elective deferrals will go down, particularly once the COVID student loan relief expires, which may result in an even larger ADP challenge if those making loan repayments are carved out.
* If an employer took out a 401(k) Plan loan for educational expenses, SECURE 2.0 does not seem to permit a matching contribution on the 401(k) plan loan repayment.