



COMPLIANCE OVERVIEW

Employer Contribution Allocation: An Emerging Benefit Strategy



IRS guidance confirms that employers may allow employees to direct discretionary employer contributions among several benefit options, provided the program is structured to satisfy applicable tax rules.

Specifically, [private letter ruling \(No. 202434006\)](#) states that an employer may reduce its discretionary 401(k) contribution and instead give eligible employees the ability to allocate that contribution to one of several benefits, including:

- The **401(k) plan**;
- The **retiree health reimbursement arrangement**;
- The **educational assistance program** (solely for qualified student loan payments); or
- An employee's **health savings account (HSA)**.

A private letter ruling, or PLR, is a written statement issued to a taxpayer in response to a written request that interprets and applies tax laws to the taxpayer's represented set of facts. **While a PLR may not be relied on as precedent by other taxpayers, it provides important insight into how the IRS might view similar employer programs.**

Links and Resources

- IRS [PLR No. 202434006](#)
- IRS [Publication 969](#), which covers HSAs and other tax-favored health plans, including how employer contributions are treated
- IRS [FAQs](#) on educational assistance programs
- IRS [FAQ](#) on obtaining a PLR

Program Operation

Under the proposed plan amendments described in the PLR:

- Eligible employees would make an annual irrevocable election during open enrollment;
- The employer would make a contribution, consistent with the employee's election, by March 15 of the following year (or if no election was made, the employer contribution would be made to the 401(k) plan); and
- Eligible employees could not receive the employer contribution in the form of cash or another taxable benefit.

The proposed plan amendments also provided that employees who elected to have the employer contribution allocated either to the educational assistance program or as an employee's HSA contribution would not be eligible to receive other benefits from the educational assistance program or make pre-tax contributions to the HSA until after March 15 of the following year, to prevent contributions greater than the applicable statutory limits.

Implementation Considerations

Employers interested in implementing a similar program should consider the following steps:

- **Consult legal and tax counsel.** Because the PLR cannot be relied upon as precedent, employers should work with qualified advisors to evaluate whether a similar structure would be possible given their specific plan design and workforce.
- **Review and amend plan documents.** Any 401(k) plan amendments, summary plan description updates, and cafeteria plan document changes should be in place before the program is offered to employees.
- **Assess administrative capacity.** Employers should confirm that their payroll and benefits administration systems can track elections, coordinate contributions across multiple benefit types, and enforce applicable statutory limits.
- **Develop employee communications.** Employers should ensure employees receive adequate notice of the program's terms prior to open enrollment, including the irrevocable election rule and any restrictions that apply when employees elect HSA or educational assistance benefits.
- **Consider state tax implications.** Federal tax treatment is addressed by the PLR, but employers should separately confirm how their state(s) treat each benefit option.

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