September 18, 2024

New Guidance Released on Matching Contributions for Qualified Student Loan Payments

Recent legislation passed by Congress includes several provisions that enhance the ability of workers to increase their retirement savings. One of these provisions, Section 110 of the SECURE 2.0 Act of 2022 (SECURE 2.0), also enhances the ability of employers that sponsor a 401(k), 403(b), governmental 457(b), or a SIMPLE IRA plan to supplement workers' retirement savings by providing matching contributions to employees who make qualified student loan payments (QSLPs) in 2024 and later plan years. Notice 2024-63, released in August 2024, provides new guidance specific to administering QSLP match programs as provided by SECURE 2.0. Although this guidance applies to 2025 and later plan years, it can be relied upon for employer QSLP matching contributions made on or after January 1, 2024.

What is a Qualified Student Loan Payment?

An employer may make a QSLP matching contribution to an employee who has made a QSLP that meets all of the following criteria.

- The employee must make a payment during a plan year for a qualified education loan incurred by the employee to pay for qualified higher education expenses as described in IRC Sec. 221(d)(2) for the employee, her spouse, or dependent.
- The employee's aggregate QSLP amount may not exceed the IRC Sec. 402(g) limit (or if less, the employee's compensation) reduced by the amount of the employee's elective deferrals.
- The employee must annually certify to the employer that qualified education loan payments were made in a manner that satisfies the requirements as described in IRC Sec. 401(m)(4)(D)(ii).

Employees Eligible to Claim QSLP Matching Contributions

An employee must be legally obligated to make a payment under the terms of the qualified education loan in order to claim a QSLP matching contribution. Generally, a cosigner of a qualified education loan maintains a legal obligation to pay the loan, but only the individual who makes payments on a qualified education loan may receive a QSLP matching contribution on account of the payments made. For example, an employee may claim a QSLP matching contribution if she is legally obligated as the debtor or cosigner on a qualified education loan *and* actually makes the payments to the qualified education loan. But, if an employee is the cosigner of a qualified education loan for a dependent, and the dependent makes the payments on the qualified education loan, only the dependent may claim a QSLP matching contribution.

QSLP Matching Contributions Determined Each Plan Year

Only QSLPs made by an employee during a plan year may be considered for purposes of calculating a QSLP matching contribution for a certain plan year. For example, if an employer defines the plan year as an off-calendar plan year (ending June 30, 2024), only QSLPs made by an employee from July 1, 2023, through June 30, 2024, may be considered for purposes of calculating the QSLP matching contribution for the 2024 off-calendar plan year.

Maximum QSLP Matching Contributions

The maximum amount that an employee may claim as a QSLP matching contribution will differ depending on the type of retirement plan (see chart below). For governmental 457(b) plan employees, the guidance recognizes that the IRC Sec. 402(g) limit reference in IRC Sec. 401(m)(4)(D) applies when determining the maximum amount of QSLPs available for matching contributions. And for SIMPLE IRAs, the maximum QSLP amount may not exceed the applicable dollar amount indicated in IRC Sec. 408(p)(2)(E).

	Maximum QSLP Amount for Matching Contribution Purposes		
401(k) or 403(b) Plans	Lesser of IRC Sec. 402(g) Limit or Annual Compensation	*less*	Elective Deferrals
Governmental 457(b) Plans	Lesser of IRC Sec. 402(g) Limit or Annual Compensation	*less*	Salary Deferrals Made Under Governmental 457(b) Plan
SIMPLE IRA Plans	Lesser of Amount described in IRC Sec.408(p)(2)(E) or Annual Compensation	*less*	Other Elective Employer Contributions

QSLP Certification

An employer may require employees to certify on an individual basis (for each loan payment) or on an annual basis (for all loan payments made during a plan year) that the loan payments meet the requirements to be a QSLP. To satisfy the certification requirement, all five items listed in the chart below must be received by the employer. The required information for items 1-3 may be collected using affirmative certification, independent verification, or through passive certification. The required information for items 4 and 5 can be validated only by using the affirmative certification method.

Required Information	Certification Method and Timing		
	Affirmative Certification	Independent Verification	Passive Certification
1. Amount of Loan Payment	Annual	Annual	Annual
2. Date of Loan Payment	Annual	Annual	Annual
3. Confirmation Payment made by Employee	Annual	Annual	Annual
4. Affirmation Loan Paid is a Qualified Education Loan Used to Pay for Qualified Education Expense(s) of Employee, Spouse, or Dependent	Annual or One Time*	NA	NA
5. Employee Incurred the Qualified Education Loan	Annual or One Time^	NA	NA

*one time only if loan is registered with employer plan
^updated information must be received if loan is refinanced or information is changed

Employer Plan Requirements

401(k), 403(b), and Governmental 457(b) Plans

To make matching contributions to employees who make QSLPs, an employer's retirement plan must meet the following requirements as detailed in IRC Sec. 401(m)(13)(A).

- Employers must make QSLP matching contributions at the same rate they make matching contributions on elective deferrals.
- Employers must make QSLP matching contributions only to employees who are also eligible to receive matching contributions on elective deferrals. Employers may *not* limit an employee's ability to receive a QSLP matching contribution for attending a certain school or specific degree program (e.g., master of business

administration) or the availability of QSLP matching contributions to only employees who incur qualified education loans for their own education.

- All employees who are eligible to receive matching contributions on elective deferrals must also be eligible to receive QSLP matching contributions. For example, an employer may *not* exclude employees based on business unit, division, location, or similar basis. However, IRC Sec. 410 disaggregation rules permit plans benefiting collectively bargained employees or employees of qualified separate lines of business to be treated differently, permitting an employer to exclude union employees covered by a collective bargaining agreement.
- The same vesting schedule must apply to QSLP matching contributions and to matching contributions on elective deferrals.

SIMPLE IRA Plans

In general, similar rules apply to QSLP matching contributions for employers who sponsor a SIMPLE IRA plan as for those employers who sponsor 401(k), 403(b), and governmental 457(b) plans. However, the guidance indicates there are some differences in how QSLP matching contributions are administered for SIMPLE IRA plans—including the determination of the maximum QSLP amount, the methods used to rely on an employee's certification that a qualified education loan payment satisfies the requirements to be a QSLP, and the ability to adopt other reasonable procedures to determine that a qualified education loan payment is a QSLP.

Employer Administrative Considerations

"Reasonable" Administrative Procedures

An employer may establish any "reasonable procedures" to implement a QSLP matching contribution program. Established procedures are determined to be reasonable based on all relevant facts and circumstances, including whether

- QSLP matching contributions are "effectively available" to all eligible employees,
- the employer's certification procedures promote compliance with QSLP matching contribution requirements, and
- the employer's QSLP matching contribution claim deadline is reasonable.

Actual Deferred Percentage (ADP) Testing

An employer that offers a QSLP matching contribution feature may complete ADP testing by using either a single ADP test for all employees or two separate tests—including one test for employees who receive QSLP matching contributions, and a second test for employees who do not receive QSLP matches. An employer may use one of two methods to complete ADP testing if it chooses to use separate testing for employees who receive QSLP matching contributions.

- **Method 1** – This method may prove beneficial for plans with a higher deferral percentage for non-highly compensated employees (NHCEs) who receive QSLP matching contributions than highly compensated employees (HCEs) who receive QSLP matching contributions.
- **Method 2** – Plans with a higher deferral percentage for HCEs who receive QSLP matches than NHCEs who receive QSLP matches may find this method helpful.

Nondiscrimination and Coverage Testing

QSLP matching contributions will be considered to be available to employees regardless of whether they have incurred debt under a qualified education loan for purposes of nondiscrimination testing (IRC Sec. 401(a)(4)) and coverage testing (IRC Sec. 410(b)).

Adding QSLP Matching Contributions Mid-Plan Year

An employer that sponsors a safe harbor plan may add a QSLP matching contribution feature mid-year provided that the employer

- provides an updated safe harbor notice and summary plan description at least 30 days before the effective date of the QSLP matching contribution feature, and
- allows employees to update their deferral elections before the effective date of the QSLP matching contribution feature.

In addition, a mid-year change to a safe harbor plan to add a QSLP matching contribution feature is not considered a prohibited mid-year change, as described in Notice 2016-16, *Guidance on Mid-Year Changes to Safe Harbor Plans and Notices.*

Timing of QSLP Matching Contributions

An employer may provide that QSLP matching contributions are contributed using a different timing frequency than matching contributions on elective deferrals so long as the QSLP matching contributions are contributed at least annually.

Incorrect Employee Certification

Even if an employee's certification of a QSLP is determined to be incorrect (e.g., the qualified education loan on which the QSLP matching contribution was based is later forgiven), a QSLP matching contribution based on that certification is not required to be corrected. However, a QSLP matching contribution may be corrected to the extent that an employee's certification of a QSLP is determined to be incorrect, provided that all QSLP matches made under similar circumstances are corrected. The option not to correct a QSLP match due to an incorrect certification does not apply with respect to an operational failure in administering the plan's QSLP match component (which includes a failure to satisfy the employee certification requirement).

Next Steps

The Internal Revenue Service (IRS) intends to issue proposed regulations to address Section 110 of SECURE 2.0 and has requested general comments regarding Notice 2024-63 by October 18, 2024. The IRS requests comments specific to whether additional guidance would be helpful regarding

- the passive certification and independent verification certification methods,
- an employee who receives a QSLP matching contribution early in a plan year before it is known if subsequent elective deferrals will reduce the employee's maximum QSLP for the plan year,
- additional examples of what is considered a reasonable procedure with respect to the administration of QSLP matching contributions, and
- additional guidance concerning the application of the QSLP matching contribution rules for SIMPLE IRA and SIMPLE 401k) plans.

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