



October 14, 2024

Internal Revenue Service
Room 5203
P.O. Box 7604
Ben Franklin Station
Washington, DC 20044

RE: CC:PA:LPD:PR (Notice 2024-63)

To Whom It May Concern:

The U.S. Chamber of Commerce (Chamber) appreciates the opportunity to comment on the Internal Revenue Service's (IRS) Notice 2024-63 (Notice) relating to the student loan matching provisions in Section 110 of the Section 2.0 Act. We appreciate the work the IRS has done in this area. Earlier this year, we submitted [our concerns](#) to the IRS and the Department of the Treasury (Treasury). The Notice addresses most of our concerns. Below are items that could be included in additional guidance or proposed regulations, responses to specific guidance in the Notice, and responses to certain questions posed in the Notice.

Additional Items

- As provided by Section 110(g), Treasury should issue model plan amendments to implement matching contributions on QSLPs. It would be particularly helpful if the model plan amendments included language addressing:
 - the two methods of satisfying Actual Deferral Percentage testing (outlined in Q/A D-1); and
 - employee certification of Qualified Student Loan Payments (QSLP).
- Any final regulation should have a good faith compliance period of at least 12-24 months.

Response to Specific Guidance in Notice 2024-63:

- In Q/A A-1, the IRS references a "legal obligation" to make a payment under the terms of the loan when defining a qualified education loan for the purposes of a QSLP. The statute does not include the term "legal obligation", which raises questions about a plan sponsor's knowledge with respect to employee certification. It should be sufficient for an employee to certify that the employee has a legal obligation to pay the loan. Similarly, in Q/A B-2, there is a reference to a "loan incurred by the employee." It should be sufficient for an employee to self-certify that the employee incurred the loan.

- In Q/A A-5, the IRS includes a fact pattern in Example 1 where “employees must remain employed through the QSLP match allocation date or through the last day of the plan year, but that condition is not included for the plan’s elective deferral match.” It would be helpful for the IRS to confirm that a separate year-end true up contribution that trues-up all matches (on deferrals and student loan match) can still have a year-end employment requirement if it is consistently applied to all employees whether or not they participate in the qualified student loan matching program.
- In Q/A B-2, the IRS defines passive certification as “a method of certification by which...(ii) information about items (1) and (2) is provided from the lender to the plan, including through an employer...” Example 3 of the same answer includes a scenario where a third-party service provider receives information from the qualified student loan lender about items (1) and (2). Both references demonstrate that the IRS intends for automatic linking of student loan information to a recordkeeper’s website, with the plan participant’s affirmative consent. This is how many plan sponsors and recordkeepers had been passively certifying (1) the amount of the loan payment and (2) the date of the loan payment until mid-2024 on existing student loan matching programs. However, recent guidance from the Department of Education to loan servicers relating to the STOP Act has changed industry practice so third-parties can no longer access the needed information (items (1) and (2)) to facilitate an automated passive certification. The practical result is that employees now must manually upload their loan payment date and amount, resulting in unintended errors and making it more burdensome for a plan participant to participate in these programs. We hope that the IRS and the Department of Education will coordinate on this issue so plan sponsors and recordkeepers can continue to receive information about items (1) and (2) directly from the lender or from a third-party service provider, provided that the data sharing is consistent with Example 3 (i.e. no sharing of item (3)). Doing so will greatly increase the likely success of student loan matching programs.
- In Q/A C-2, the IRS provides that a plan may establish a single QSLP match plan deadline for a plan year or multiple deadlines. In the answer, the IRS states that an annual deadline that is three months after the end of a plan year is an example of a reasonable deadline. In future guidance, the IRS could update the example to provide it is reasonable to require the individual to be actively employed on the date the match is made.
- In Q/A D-1, the IRS describes 2 methods for optional separate ADP testing applied pursuant to section Internal Revenue Code Section 401(m)(13)(B)(iv). We appreciate the description in the Notice, but it would be helpful for the IRS to elaborate on these new testing methods in a proposed regulation. Any proposed regulation should provide plan sponsors the flexibility to use either method each year.

Response to Questions in the Notice

- Additional guidance on passive certification/independent verification would be helpful to receive.

- For plans that make QSLP matches more frequently than annually, it would be helpful to receive additional guidance in the case of an employee who receives a QSLP match early in the year before it is known whether subsequent elective deferrals will reduce the employee's maximum QSLP for the year.
- Additional examples of reasonable procedures with respect to QSLP matches would be helpful. In particular, an example regarding quarterly deadlines and shorter deadlines following the plan year end (e.g. within the first month after the end of the year) would be helpful.
- Other than the clarification listed above, we believe that no further guidance or examples are needed on what constitutes reasonable procedures.

Conclusion

We truly appreciate IRS' work on this issue. This is a very important issue for many of our members, and the guidance will help our members implement this valuable benefit.

Sincerely,

A handwritten signature in cursive script that reads "Chantel Sheaks".

Chantel Sheaks
Vice President, Retirement Policy
U.S. Chamber of Commerce