

COVID-19 & Executive Benefits

How can plan sponsors suspend the employer match?

- If the employer match is discretionary – simply do not make the contribution to participant accounts.
- If the employer match is defined – a plan amendment or board resolution is necessary in order to suspend contributions. In this circumstance, it is considered best practice to consult with legal counsel.

How can plan sponsors freeze the deferred compensation plan?

In general, plans can be frozen at any time, but deferral elections are irrevocable for the tax year in which they are made. Exceptions to this rule include:

- Cancellation of deferrals due to Disability
- Unforeseeable Emergency
- 401(k) Hardship if the NQ document requires deferrals to cease

How can participants stop current deferrals or take an unplanned distribution?

- Participants can stop current deferrals or take a withdrawal in the event of an Unforeseeable Emergency.

If the plan does not currently contain an Unforeseeable Emergency provision, one can be added at any time, even for current balances. Here's how this could work:

- A participant "applies" to their plan sponsor for an Unforeseeable Emergency. The participant must apply. The employer cannot preemptively assume an unforeseeable emergency exists.
- Said "application" states "cessation of deferrals under the plan would alleviate the immediate and heavy financial need".
- If the plan sponsor agrees an UE occurred and would in fact be relieved by said "cessation of deferrals under the plan", the plan sponsor may "cancel" deferrals. All contributions, including Performance Based Compensation, are cancelled for the rest of 2020 and participants MUST take definitive action in Q4 2020 to actively re-enroll for 2021.
- The process of determining an UE may be different for each person, so it is important a plan sponsor review each individual's situation and not apply this to everyone at a plan level.

FOR INSTITUTIONAL USE ONLY.

©Lockton Companies 2020. For educational purposes only. Nothing in this alert should be construed as legal or financial advice.