CPA Practice Advisor

pension-linked emergency savings accounts.

Jason Bramwell • Jan. 15, 2024

The IRS on Jan. 12 issued preliminary guidance to help employers with implementation of pension-linked emergency savings accounts (PLESAs), specifically on the anti-abuse rules regarding these plans.

Authorized under the SECURE 2.0 Act of 2022, PLESAs are individual accounts in defined contribution plans and are designed to permit and encourage employees to save for financial emergencies.

Employers can offer PLESAs in plan years beginning after Dec. 31, 2023, and in some

contributions, is $2,500, though employers can choose to set a lower limit.

PLESAs are treated as designated Roth accounts, which means contributions are not tax deductible, but withdrawals are generally tax free. Participants can withdraw funds held in the PLESA at least once a month, as necessary.

Guidance on reasonable measures employers that offer PLESAs can take to discourage potential manipulation of the PLESA matching contribution rules can be found in Notice 2024-22. The following is an excerpt from Part III of the notice, "Guidance Under Section 402A(e)(12) Regarding Reasonable Anti-Abuse Procedures":

> Congress directed that the Secretary of the Treasury, in consultation with the Secretary of Labor, issue guidance with respect to the discretionary anti-abuse rules described in section 402A(e)(12). This Part III provides examples of anti-abuse procedures that are not reasonable and thus may not be used to limit the frequency or amount of matching contributions made to the account. This Part III first highlights several statutory provisions within section 402A(e) to which a plan might look to limit the ability of participants to manipulate the rules of the plan to cause matching contributions to exceed the intended amounts or frequency.
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> **A. Statutory Provisions**
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> Statutory provisions under section 402A(e) that limit manipulation of the rules of the plan to cause matching contributions to exceed the intended amounts or frequency include:

• Order of matching contributions: Section 402A(e)(6)(B) provides

provides that matching contributions on account of contributions to the PLESA cannot exceed the maximum account balance set under section 402A(e)(3)(A) ($2,500 (as adjusted by the Secretary of the Treasury)) or a lower amount set by the plan sponsor) for the plan year. Section 402A(e)(3)(A)(ii) also permits a plan sponsor to set a lower PLESA balance limit than the $2,500 limit under section 402A(e)(3)(A)(i). A lower limit on the portion of the PLESA balance attributable to participant contributions would result in a correspondingly lower cap on annual matching contributions that would be required under section 402A(e)(6)(A).

A plan sponsor might view these provisions as sufficient anti-abuse provisions, and therefore decide not to impose any other restrictions meant to prevent manipulation of matching contributions. In such a case, for example, a plan sponsor may consider a participant as not manipulating the matching contribution rules if the participant made a $2,500 contribution in one year, received the matching contribution on such amount, and then took $2,500 in distributions that year and repeated that pattern in subsequent years.

Similarly, because plans are not required to permit participants to take more than one distribution per month, plan sponsors may view the option of limiting the number of permissible withdrawals to a maximum of once per month as a sufficient constraint on the potential to manipulate the matching contribution rules.

B. Procedures to Limit Manipulation of Matching Contributions

contributions in the PLESA. If a plan sponsor decides to employ additional procedures to prevent abuse, section 402A(e)(12)(A) provides that reasonable procedures are permitted solely to the extent necessary to prevent manipulation of the rules of the plan to cause matching contributions to exceed the intended amounts or frequency.

A reasonable anti-abuse procedure is one that balances the interests of participants in using the PLESA for its intended purpose with the interests of plan sponsors in preventing manipulation of the plan's matching contribution rules. Plan sponsors may find it challenging to identify participants engaging in manipulative practices because those participants may be able to adapt their pattern of contributions and distributions to replicate patterns of participants making contributions and taking periodic distributions for legitimate purposes, such as unexpected expenses. The Treasury Department and IRS have determined that procedures that are unreasonable for a plan sponsor to implement include, but are not limited to:

• Forfeiture of matching contributions: A plan may not provide that matching contributions already made on account of participant contributions to the PLESA will be forfeited by reason of a participant's withdrawal from a PLESA;

• Suspension of participant contributions to PLESA: A plan may not suspend a participant's ability to contribute to the participant's PLESA on account of a withdrawal from the PLESA; and

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