Employee Benefits Newsletter
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Send Your Employees Back to School With Education Benefits

With the cost of a higher education increasing each year, it is undeniable that education benefits are a highly desired benefit in the current job market. In a recent survey, 75% of employees stated they would feel more motivated in their current job if they had employer-provided education benefits and 73% of employee respondents believe that education benefits would make them feel more equipped at their current job.[1] Further, in another survey, 88% of Gen Z employees reported that they are more likely to recommend an employer that offered education benefits.[2]

Moreover, education benefits help not only employees but also employers. A study based on a large national employer's educational reimbursement program found that for every $1.00 the employer spent on its program, it not only got the $1.00 investment back but saved an additional $1.29 through reduced employee turnover and lower recruiting costs.[3] Likewise, another survey found that 81% of employees agreed that their employer's tuition assistance program makes them more likely to stay with the organization.[4] The why of education benefits seems clear, but what about the how? This article outlines the ways education benefits may be provided to employees and the benefits of each.

Section 127 Plans

Likely the most common way employers may provide education benefits are Section 127 Plans, which allow an employer to provide assistance to employees for educational expenses. If a plan meets the requirements of Code Section 127, then the money received by the employee is not included in the employee's gross income. The present annual limit on Section 127 tax-advantaged assistance is $5,250. For a Section 127 Plan to be qualified and receive tax advantages, it must fulfill several requirements, including:

- Maintaining a written plan document and providing notice to employees of the plan.
- Not discriminating in favor of highly compensated employees.
- Not requiring employees to choose between educational assistance and other remuneration.
- Providing benefits solely for educational assistance, including expenses for tuition, fees, books, and other supplies, and noting any expenditures should be substantiated by receipts or other documentation.
- Providing benefits for employees only, which may include retired, disabled, or laid-off employees, but does not include any spouses or other dependents.

[1] "Education Benefits Study, Executive Summary," *Bright Horizons* (October 14, 2020).
[2] "2019 Working Learner Index," *Bright Horizons* (March 19, 2019).
[3] "Cigna Realizes Return on Investment from Tuition Benefits, White Paper," Lumina Foundation (May 16, 2016).
[4] "In Demand: Tuition Assistance," *Bright Horizons* (July 15, 2020).

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Beyond these requirements, employers are given a great deal of latitude in designing their Section 127 educational assistance programs. For example, employers may require written notice from employees, certain grades, the attainment of a specific degree, or a certain amount of tenure with an employer to be eligible while still remaining qualified under Section 127 of the Code.

Section 117 Scholarships

Another way an employer may provide educational assistance is through a qualified scholarship program under Section 117 of the Code. Scholarships provide a way for employers to target educational assistance more directly and, as opposed to Section 127 plans, they can be provided to spouses and dependents of employees. However, like Section 127 plans, qualified scholarships must comply with a number of requirements or otherwise be included in the recipient's gross income. These requirements include:

- The scholarship cannot be contingent on a promise to work for the employer in the future.
- The selection committee for the scholarship must be composed of individuals independent and separate from the employer.
- The scholarship program must have identifiable requirements for eligibility and may not require more than three years of employment prior to any eligibility.
- Selection of scholarship recipients must be objective and based on standards unrelated to the employer's business or employment of any individual.
- The scholarship recipient must be free to use the scholarship on their choice of study.
- The scholarship program must be for the exclusive purpose of enabling recipients to obtain an education.
- The scholarship program must pass certain nondiscrimination requirements annually.

Section 117 Scholarships provide greater flexibility to whom educational assistance may be provided but does not provide assistance to every employee. Section 117 Scholarships may also provide a greater benefit beyond the Section 127 contribution limitations but, at the same time, narrow the field of individuals who actually receive such benefit.

529 Plan Contributions

Employers can also contribute to an employee's or employee's family member's account in a 529 Program. 529 Programs are tax-advantaged savings plans usually sponsored by states or state agencies and are authorized by Section 529 of the Internal Revenue Code. In order to gain the tax benefits of a 529 account, funds in a 529 account may be used only for qualified education expenses such as tuition, books, and room and board. Further, any contributions made to 529 accounts are deductible by employers as wages and compensation. While an employee may be taxed on these contributions (depending on specific state laws), an employer may contribute more than the Section 127 limitation. Further, some states, including Arkansas, Colorado, Illinois, Nebraska, Nevada, Wisconsin, and Utah, offer incentives to employers who provide contributions to their employees.

Education Benefits in the Future: SECURE 2.0 and Employer Matching

The proposed Securing a Strong Retirement Act of 2022 (SECURE 2.0) contains several novel employee benefits related provisions, including one that would allow companies to "match" an employee's student

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loan payments. Under SECURE 2.0, an employer would be permitted to match an employee's student loan payments as contributions to a qualified retirement plan. For example, if an employee forgoes deferrals in order to make student loan payments every month, an employer would still be able to provide the matching benefit. This provision would allow those employees with student loan debt burdens to pay off their loans while still saving for retirement. SECURE 2.0 is expected to pass during the lame duck session in December 2022.

Next Steps

If you have any questions about education benefits programs or would like assistance in determining what education benefits are best for your employees, please reach out to a member of the Kutak Rock Employee Benefits and Executive Compensation practice group.