

# EMPLOYMENT WEB SERIES



## Employer-Assisted Student Loan Repayment Programs: Best Practices and Tips for Success

## Meet Today's Presenters



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# **Student Loan Repayment Programs: Identifying the Problem**

- **Common student loan statistics**
- **Retention issues for younger workforce**
- **Implementing optimal structure of employee benefits packages**
- **Organizing new programs to comply with variety of applicable state and federal law**



# Student Loan Repayment Programs: Employers as Part of the Solution

## ■ Chipping Away at Debt Reduction

- Three out of four borrowers have monthly payments of \$300 or less.
- Extra \$100 per month shaves three years off the total repayments based on median student loan balance, interest rate and payment term.

## ■ Employee Retention Strategy

- 86% of workers between ages of 22 and 33 would commit to an employer for five years if the employer offered a student loan repayment program.

## ■ Structuring employee benefits packages

- Customized solutions for evolving workforce should include those benefits in which employees have expressed the most interest.
- Powerful differentiator for employers who do offer these programs.

# »» So How Do We Do It?

## ■ Overview of Critical Issues

- Basic Structure of Employer Programs
- Tax and ERISA Concerns
- Compliance Issues
  - Vendor Selection
  - Regulatory Concerns

- **Ultimate Goal:** Structure an employee benefit program that does not materially raise employer costs, attracts and retains talent, takes advantage of any tax benefits, and provides a positive corporate image.



# Basics of Student Loan Repayment Assistance Programs

## ■ Establishing Employee Eligibility

- Broad discretion
- No federal income tax subsidy, so therefore no nondiscrimination requirements
- Targeted to in-demand or high salaried groups

## ■ Use as a Retention Tool

- Are your current fringe benefit programs attracting and retaining employees?
- What about older workers?
  - Parent PLUS Loans



# Basics of Student Loan Repayment Assistance Programs

- **Structuring the amount of the benefit**
  - Monthly benefit amount usually less than full amount due by employee borrower
    - Common range of \$50 - \$200 per month
  - Annual or lifetime maximums
  - Benefit amount can be tied to performance, similar to a profit sharing program or discretionary bonus program



# Employer Assisted Repayment Administrators or Vendors







# Basics of Student Loan Repayment Assistance Programs

## ■ Service Requirements

- Must participants continue to work for an additional period after payment is made?

## ■ Clawbacks

- Employer payment of student loans contingent on five-year work commitment, for example.
- Amounts will be treated as compensation when paid.
- For departing employees, employer may seek recovery of amounts previously paid.
  - Be careful about wage payment and collection laws if seeking to offset.



# Federal Income Tax Treatment of Student Loan Repayment Programs

- **Currently, no specific tax benefit for employer-paid student loans**
  - Treated as taxable income and wages, compensation for employment services (See IRC § 61)
  - Also subject to FICA and Medicare taxes at the time of payment.
  - Withhold at supplemental wages income tax rate (22% for 2018)
    - Reported on Form W-2 and NOT on Form 1099-MISC



# Federal Income Tax Treatment of Student Loan Repayment Programs

- **Some exceptions to this general rule**
  - NHSC Loan Repayment Program for medical providers serving in communities with limited access to care
  - Military student loan forgiveness for combat zone deployment
- **Tax-free educational assistance, but not student loan assistance?**
  - IRC § 127: \$5,250 tax free every year, regardless of purpose of class
  - Does not apply to student loan repayments



# Federal Income Tax Treatment of Student Loan Repayment Programs

- **Legislative initiatives to provide a tax benefit to student loan repayments**
  - **Employer Participation in Student Loan Assistance Act**
  - **Would expand Section 127 benefits to repayment of qualified student loans**
- **Other efforts to provide some benefit**
  - **Enhancement to Section 529 plans**
  - **State-level efforts: Massachusetts proposed legislation would allow employers a state tax deduction up to \$3,600**



# Federal Income Tax Treatment of Student Loan Repayment Programs

- If no tax benefit, why would we do this?
- Even without tax benefits, still attractive to many employers
  - Employer deduction, just as any other wages
  - Increasing payment amounts over course of longer employment period to encourage retention
    - More money towards repayment of student loans after Year One, Year Two, etc.
  - Eventually leads to greater participation in other benefits, including retirement plan contributions



# Tying Student Loan Programs to Other Employee Benefit Plans

- **Coordination with benefit programs**
  - Many employees think it's either pay student loans, or contribute towards retirement/other benefits
  - Could have negative impact on nondiscrimination testing for employer plans
- **Cafeteria Plans**
  - Section 125: Cash or qualified benefits
  - Qualified benefits do not include student loan repayments



# Tying Student Loan Programs to Other Employee Benefit Plans

- **New programs: Employer payment toward student loan equals amount deferred by employee to 401(k) plan**
  - Employer receives deduction when paying wages just as it would for making a contribution to the 401(k) plan, but now the employee gets tax deferral by contributing to plan
- **Must BE CAREFUL with qualified plans!**
  - Nondiscrimination rules
  - Matching contribution requirements
  - Will require a plan amendment and notice to plan participants
  - Proposed Legislation: Retirement Improvement and Savings Enhancements (RISE) Act

## »» Headlines! Any news is not good news...

- XYZ Company Joins List of Millennial Friendly Companies
- ABC Company Ranked in Top 10 Best Places to Work
- 123 Company Edges Out Recruitment Competition



- I didn't Know About My Options
- Employer Contribution Gone Wrong
- Student Loan "Benefit," No Benefit At All





# Historical regulator & law enforcement scrutiny related to loan repayment

- Servicing issues predate student loan
- Consumer complaints & public opinion suggest student loan debt may be the next "crisis"
  - Consumer Financial Protection Bureau & state Attorneys General begin to investigate
- Publication of a memorandum outlining specific expectations for student loan servicing
- Servicing memorandum
- "Next Generation Servicing & Processing"
- **Not to mention:**
- For profit schools investigations & litigation; borrower defense to repayment issues; servicers acquiring & transferring portfolios and changing organizational structures



# Federal Regulator Sheds Light on Expectations



Report highlights issues, such as:

- Acceptance of electronic payments from third parties
- Visibility into account information
- Timeliness of responses to employer benefits enrollment



# Federal Regulator Sheds Light on Expectations

Report cites other servicing concerns:

- Lack of consistent payment processing policies across student loan servicers (causing two borrowers at the same employer to receive different value from the same student loan repayment benefit)
- Improper allocation of payment, despite accompanying instructions
- "Antiquated" computer software and policies



# Checklist For Vendors / Servicers (Employee / Borrower Protection)

- Information central to borrower decision making:
  - Federal v. private loan
  - Picking the right plan
  - Understanding how interest accrues
  - Understanding amortization
  - Loan Forgiveness (including public service loan forgiveness)
  - Paid Ahead Status
- Allocation to loan with the highest interest rate
- Promoting healthy repayment habits
- Counseling – Do you provide this? Pros and cons
- UDAAP – How does your marketing match up with the services you provide?
  - Offering refinancing & refi relationships
- Expectation setting
- Privacy & data security (3<sup>rd</sup> party authorizations)
- Technology

## Checklist for Employers

- Review current employee benefits offerings
  - Does a student loan repayment program make sense?
- Determine eligibility standards
- Determine maximum monthly, annual or lifetime benefit
- Review tax treatment of repayment program
- Coordinate with other employee benefit programs
- Employee outreach and notices

## » Checklist for Employers (continued)

- Everything in "Vendors / Servicers Checklist" PLUS
- The A, B, C's of Student Loans & Servicing
  - Do you know the right questions to ask?
- Vendor selection & contracting
- Vendor management & oversight
- Administration or operations guidebook
  - Employee check-ins; milestones; expectation handling
- Privacy & data security
  - Default, delinquency or credit issues can be embarrassing



## Creative Ideas

- Sign Up Day / Fair
- Student Loan Counseling Day / Fair
- Counseling appointments
- Ask the experts. Don't rely on Google!

# »» Questions?





## Thank You For Attending

- Other upcoming webinars in this series will cover websites and ADA Compliance, and cybersecurity and data privacy, among other things
  - Keep a look out for information via email
- Feel free to reach out to our presenters:

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