



FIDUCIARY AND D&O QUESTION OF THE MONTH: SUSPEND EMPLOYER CONTRIBUTIONS TO 401(K)?

Question: Our business is looking for ways to cut costs right now. Can we suspend employer contributions to our 401(k) plan?

Answer: You may or may not be required to make employer contributions to your 401(k) plan, depending on what type of plan you have. Safe harbor 401(k) plans have specific contribution requirements that must be met, and there are limited options for amending these types of plans mid-year.

Traditional 401(k) plans can have employer contributions and/or employer matching contributions. Plan terms should be consulted to determine if you are required to make employer contributions for 2020. If your plan rules state that employer contributions are not discretionary, you would need to file an amendment to the plan in order to suspend future employer contributions. If the employer contributions are already discretionary, you are generally able to stop making the contributions without a plan amendment. Employer matching contributions may also be suspended going forward by a plan amendment.

However, keep in mind that for plans that require participants to work 1,000 hours in a year or be working on the last day of the year in order to be eligible to receive the employer contribution, the employer contribution may still need to be paid out if the participant has met the 1,000 hours or last day requirement. If your plan contains these kinds of requirements you may want to adopt a plan amendment suspending employer contributions before employees have worked 1,000 hours in the year. When making these determinations it is important to make sure that hours of service are being properly counted and that plan service providers are following the plan terms.

You may wish to consult a tax or employee benefits professional who can assist you with evaluating your options based on the specific terms of your plan and to avoid the potential disqualification of your plan if employer contributions are improperly suspended or violate the plan rules.

For more information please see:

- [401\(k\) Plan Overview](#)
- [Mid-year Changes to Safe Harbor 401\(k\) Plans and Notices](#)
- [401\(k\) Plan Fix-It Guide - Employer matching contributions weren't made to all appropriate employees](#)