



## Newsletters

### Employer-Assisted Student Loan Repayment Programs: A Possible Solution to a Growing Problem

March 30, 2018

*Recently, Hinshaw attorneys Anthony Antognoli and Vaishali Rao presented a webinar on employer-assisted student loan repayment programs. Anthony summarizes some of the issues presented in the webinar below. View the [webinar and presentation materials](#) on our website.*

Even casual observers of today's news know the problem of student debt in America is significant and growing. There is currently more than \$1.5 trillion in student loan debt owed by American workers, and default rates have been increasing. The average recent graduate has a debt obligation approaching \$40,000, and 2 out of every 3 recent grads have student loan debt.

Employers may want to assume a role in addressing this problem, as taking such action may also help employers solve problems of their own including attracting, incentivizing, and retaining key talent. [Studies](#) indicate that 86% of workers between the ages of 22 and 33 would commit to an employer for five years if the employer offered a student loan repayment program.

Under the standard employer student loan repayment program, the employer offers to pay all or a portion of an employee's monthly student loan debt obligation. The employer, in its sole discretion, selects the employees who would be eligible to participate in the program, as the nondiscrimination rules that typically apply to other benefit programs—such as 401(k) plans, cafeteria plans, and group medical plans—do not apply to student loan repayment programs. The employer may even structure the program to require a work commitment from the employee in exchange for the employer's payments toward the student loan.

Currently, there is no tax benefit associated with student loan repayment programs. In that sense, an employer's contribution towards an employee's outstanding debt is treated no differently than if the employer simply paid the employee in cash. The payments made toward the student loan are treated as wages, and subject to federal income and payroll tax withholding at the supplemental wage rate. The allowance for tax-free educational assistance under Section 127 of the Internal Revenue Code does not currently apply to student loan repayment programs, although recent legislative initiatives have sought to provide for such tax-free treatment.

Even without a current tax benefit, student loan repayment programs can still be attractive. Employers have significant flexibility in structuring the loan repayment program. Employers may condition their payments on the employee fulfilling a

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work commitment, as well as establish an incentive structure that would increase the amount of the student loan assistance as the employee meets performance goals with the company. While older workers may look for generous retirement benefits and strong medical plans, those benefit programs generally are not as important to younger workers. Employers offering student loan assistance program address the demands of a changing workforce.

Student loan repayment programs are increasingly being integrated with other benefit offerings. For example, in recent years, employers may have seen their retirement plan asset managers attempt to tie student loan repayment programs into the employer's retirement plan. Some large plan service companies have developed programs to provide plan participants with matching contributions to the retirement plan based on student loan repayments made through a loan servicer selected by the employer. Employers interested in taking this step need to carefully review their retirement plan documents and update them as needed to ensure they do not create new tax and ERISA issues.

Employers must also be aware that with student loan repayment programs come obligations under consumer protection and lending laws. There are several options available to employers when it comes to administering the student loan repayment benefit program. Employers need to understand the functions and limitations of student loan servicers and have a basic understanding of the types of consumer protections related to student loans that have been highlighted by regulators over the past several years. One major area is repayment options: ensuring student loan borrowers understand the difference between federal and private loans and are educated about the pros and cons of the various federal student loan repayment options, like income-based repayment.

As the problem of student loan debt continues to grow, employers should anticipate being called upon to be part of the solution. If they decide to offer a student loan assistance program, employers should carefully consider the structure of the program and its compliance with all tax, employee benefits and consumer financial protection laws.

Please contact Anthony Antognoli or your regular Hinshaw attorney with any questions regarding student loan repayment assistance programs.

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