

TOTAL COMPENSATION OFFERING: IRS PLR CREATES EMPLOYEE CHOICE OF HOW TO SPEND EMPLOYER FUNDING



In recent months, we have been having conversations with our clients about moving away from one-size-fits-all approaches to compensation, benefits, and retirement plans in response to the varying age distribution and needs of active workforces. For example, an employee with children has more health care needs than an employee approaching retirement. So, why not use the dollars accordingly?

IRS Private Letter Ruling (PLR)

In a recent ruling, the IRS provided a blueprint where it concluded that employees may allocate employer contributions between a health reimbursement arrangement (HRA) and a profit sharing plan without creating a 401(k) plan or violating the rules for HRAs. Although PLRs are only applicable to the parties that requested them and are not law, per se, it does shed light on a particular viewpoint by the IRS.

The ruling states that plans in question require participating employers to make contributions according to a contribution schedule. The basis of the ruling request was to amend a profit sharing plan and the HRA so that the allocation of the employer contribution be based upon an annual election made by each covered employee before the beginning of each plan year. The thought process behind the ruling request was two-fold:

- The proposed plan will not cause the profit sharing plan to be treated as offering a cash or deferred arrangement under the relevant 401(k) rules; and
- The proposed plan will not affect the tax treatment of HRA contributions and benefits.

The key takeaway from this ruling is that employees would not be permitted to elect the contributions payable in cash or used in any other manner, other than making the allocation request to either the HRA or profit sharing plan. The ruling also requires the elections be annual and irrevocable. As long as both plans continue to adhere to their specific requirements, no other adverse consequences to any of the parties will occur.

As employers continue to pursue various strategies to offer flexibility and contain costs, this alternative approach, along with other similar compensation and benefits concepts should be evaluated to assist in creating a diverse cost management strategy.

Please contact Elliot for more information or if you wish to discuss.



Elliot N. Dinkin
President/CEO
elliottd@cowdenassociates.com
412.394.9997
cowdenassociates.com

