Electronic Alert

What the Consolidated Appropriations Act of 2021 Means for an Employer's Ability to Make Pre-Tax Student Loan Payments for Their Employees

By Iris Tilley & Gabrielle Hansen

As employees join the workforce with more and more student loan debt, employee benefit programs that help employees chip away at this debt have become of increased interest to employees. However, the employer side of this equation has remained complicated, with few options available to those employers wishing to assist employees with debt they incurred prior to their hire date.

The Coronavirus Aid, Relief, and Economic Security (CARES) Act temporarily expanded these options, and the Consolidated Appropriations Act of 2021 (CAA 2021) extended the time period of this temporary expansion. As the law stands now, employers are permitted to include student loan assistance of up to $5,250 per year in their Educational Assistance Plans until December 31, 2025.

Practically, this means that employers can pay up to $5,250 annually toward employee's student loan debt on a **tax-free** basis, so long as they structure the payments in compliance with IRS rules governing Educational Assistance Plans, which come from IRS Code Section 127.

In particular, in order to qualify as an Educational Assistance Plan and provide tax-free student loan payments, the employer must (or in some cases, should):

1) Have a written plan document describing the group of eligible employees, the types of benefit offered, and a statement that employees cannot chose between the benefit and cash compensation;
2) Provide notice to employees that the benefit exists;
3) Obtain expense substantiation for amounts to be paid under the plan; and
4) Perform nondiscrimination testing.

For questions on employee benefit programs aimed to address student loan debt, the effects of COVID-19, or for any other benefits matters, contact Iris Tilley or Gabrielle Hansen at 503-228-0500, or at itilley@barran.com or ghansen@barran.com.