

Benefits Alert

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“Partial Plan Termination” relief for qualified 401(k), 401(a) defined contribution plans and defined benefit pension plans in the Consolidated Appropriations Act, 2021

In addition to annual funding for the federal government and provisions on economic stimulus necessitated by the COVID-19 pandemic, the [Consolidated Appropriations Act, 2021](#) (Act), enacted on December 27, includes temporary relief from the minimum vesting standards tax rules for employer-sponsored qualified retirement plans—both defined contribution (DC) and defined benefit (DB) pension plans. In the absence of the new statutory relief, these plans may have been “partially terminated” as a result of workforce reductions, as the employers sponsoring them incurred significant pandemic-related business hardships.

Division EE, Section 209 of the Act, “Temporary Rule Preventing Partial Plan Termination”, provides a window of relief from the occurrence (and subsequent formal recognition and mandatory actions) of a partial plan termination for any plan **if the number of active participants covered by the plan on March 31, 2021, is at least 80% of the number of active participants covered by the plan on March 13, 2020.**

A “partial termination” or “discontinuance of contributions” (IRC §411(d)(3)) could occur in a plan if benefits are reduced or eliminated for a proportion of plan participants. A partial plan termination is determined by the facts and circumstances that resulted in benefit reductions or cessations, but, in general, inspection commonly commences when a reduction of 20% or more occurs in an employer’s covered workforce due to unforeseen business circumstances causing financial issues or a business downturn during the year. For example, a partial plan termination may occur because of a 20% turnover rate of participating employees due to involuntary severance from employment during the plan year, even if caused by an event outside of the employer’s control, such as severance due to depressed economic conditions. This explains why the *at least 80%* provision in the Act was added. A partial termination can have a significant impact on an employer’s plan because it requires 100% vesting of affected employees. For a defined contribution plan, this means all nonvested employer contributions such as matching contributions or employer nonelective contributions of affected employees are no longer subject to forfeiture. In turn, the reduction in forfeitures eliminates future use of such forfeitures by the plan sponsor (for example, to offset the cost of employer contributions or plan expenses, depending on the terms of the plan).

Although the new legislation is for this time period only, it may help alleviate financial difficulties for businesses across all industries. For businesses that have been able to successfully weather the financial downturn, rebuild their business, and hire and rehire more staff to the 80% or more covered participant threshold, a partial plan termination worry has been eliminated. Formal guidance will need to be provided by the Internal Revenue Service (IRS) for the correct application of the new statute.

For information on these topics, the Coronavirus Aid, Relief, and Economic Security (CARES) Act or the Consolidated Appropriations Act, 2021, please contact your Milliman consultant.



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