Employee Layoffs Due to COVID-19 Can Trigger Partial Retirement Plan Termination

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Under current IRS guidance, when a ?ÃÂ£significant?ÃÂ¥ number of participants cease to be eligible to participate in a tax qualified retirement plan, such as due to involuntary terminations of employment, a partial plan termination has occurred, and the affected participants must be made 100% fully vested in their account balances. The IRS considers an involuntary reduction in the number of plan participants by more than 20% in a given plan year to be significant for that purpose. In light of the significant disruptions to many employers?ÃÃ businesses due to the COVID-19 pandemic, the question arises whether any of their workforce reductions also triggered a partial plan termination. The IRS recently issued FAQs which clarify that employees who are laid off or terminated in 2020 but are rehired by their employer by the end of 2020 will not have incurred an involuntary termination of employment for purposes of determining whether a partial plan termination has occurred. Note, however, that many employers use certain terms relating to employee terminations interchangeably (*e.g.*, layoff, furlough, reduction in force), but the partial plan termination rules only look to actual terminations of employment. Consequently, a reduction in an employee?ÃÃs hours or a temporary furlough (which is more akin to an unpaid leave of absence where the employee is expected to return to active employment within a reasonable period of time and may even remain eligible to participate in some of the employer?ÃÃs benefit plans) would not typically constitute an involuntary termination of employment for purposes of the partial plan termination rules. Employers should consult their benefits counsel to determine if any workforce reductions could constitute a partial termination of their retirement plan. The FAQs are available **here**.