

## Client Alert: Deferral Contribution Planning Consider the Impact of COVID-19 on Higher 401(k) Refunds

The economic impact of the COVID-19 pandemic has likely reduced 401(k) contributions this year. And as a result, the ERISA required nondiscrimination testing that occurs at the end of the plan year will result in higher taxable 401(k) refunds for highly compensated employees (HCE). These taxable refunds to HCEs paid in February/March 2021 may also result in a loss of company contributions.

According to Plan Sponsor Council of America, just under 40% of 401(k) plans reported refunding or restricting HCEs contributions in order to pass testing in 2018. 16.7% of 401(k) plans reported returning excess contributions to HCEs. This is up from 12% the year before.

There are solutions available that offset the risk of non-compliance and allow for high-earners to defer more compensation. Consider a Non-Qualified Deferred Compensation Plan (NQDC) for your highly-compensated employees with a deferral option to include excess 401(k) contributions. You can read more on the topic [here](#).

Please contact your **Mullin Barens Sanford Financial** consultant listed below or schedule a call via this [link](#).

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