

# IRS Provides New Relief for Mid-Year Reductions to Safe-Harbor Contributions

By: Alex Mattingly on July 2, 2020 on [graydon.law](https://graydon.law)

The economic downturn created by COVID-19 has caused many employers to reduce costs across the board, including making cuts to employee compensation through benefit plans. Some employers have considered making mid-year reductions to safe harbor contributions, but are either prohibited or uncertain if those amendments are permissible under the safe harbor regulations. In response to these concerns, the IRS has issued [Notice 2020-52](#) to provide relief from certain requirements that would otherwise apply to mid-year amendments.

Prior to the Notice and under the current regulations, an employer is permitted to make a mid-year reduction or suspension of safe harbor contributions, but only if the employer is either (1) operating at an economic loss, or (2) had already provided a “maybe not notice” (i.e., a statement in the plan’s annual safe harbor notice that the safe harbor contributions might be reduced during the year). Additionally, a mid-year reduction to safe harbor contributions under the current regulations cannot go into effect earlier than 30 days after eligible employees have been provided with a supplemental notice.

Notice 2020-52 temporarily relaxes the requirements an employer must meet in order to reduce safe harbor contributions. If a plan amendment is adopted between March 13, 2020 and August 31, 2020, any employer can reduce safe harbor contributions, regardless of whether that employer is operating at an economic loss or provided a maybe not notice. In addition, an amendment that reduces safe harbor *nonelective* contributions is permitted to go into effect immediately, without the 30-day advanced notice, but only if a supplemental notice is provided to eligible employees no later than August 31, 2020, and the amendment is adopted no later than the effective date of the reduction. Please note that the 30-day advanced notice rule still applies for the reduction or suspension of safe harbor matching contributions.

Finally, the IRS clarified that employers may reduce contributions for highly compensated employees (HCEs) in a safe harbor plan without operating at an economic loss, providing a maybe not notice, or relying on the temporary COVID-19 relief. However, in spite of the fact that contributions to HCEs are not defined as safe harbor contributions, a mid-year change that reduces contributions made on behalf of HCEs can only go into effect after updated

safe harbor notices have been distributed and affected HCEs have had a reasonable opportunity to change elections (30 days is deemed reasonable).

If you have questions about this amendment or any other benefit issues, please reach out to any of Graydon's employee benefits attorneys.