

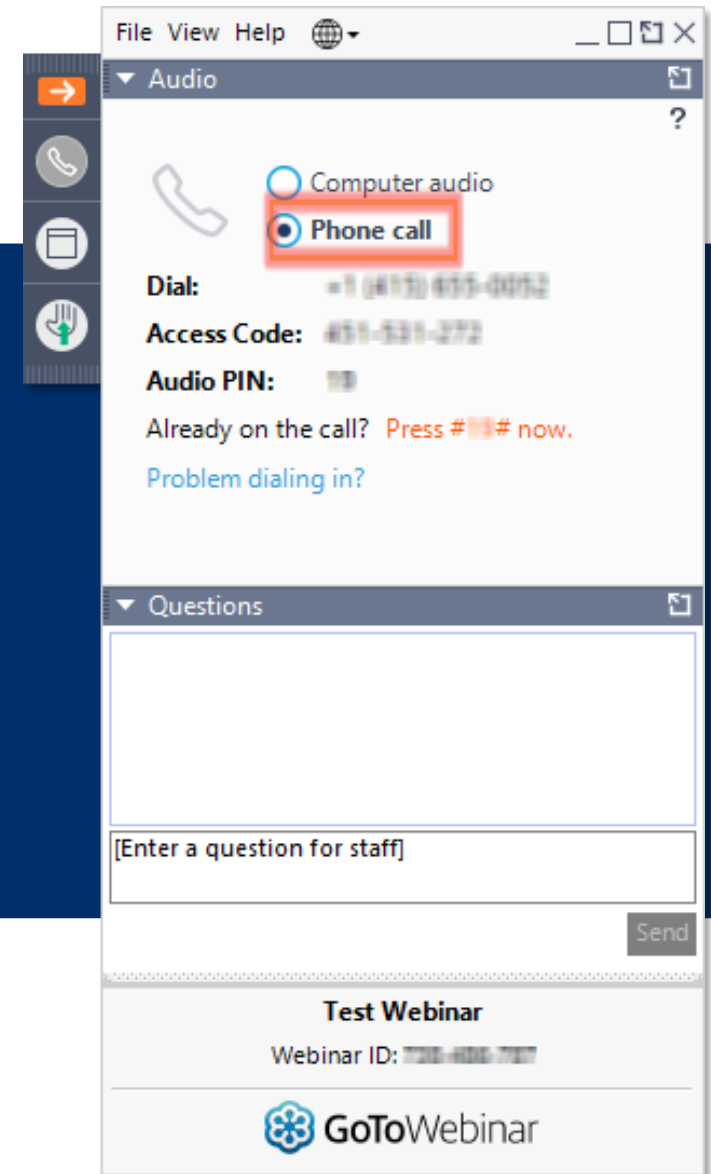


LIVE Webinar Part IV

COVID-19 Challenges for Employers: How to Navigate the Ever-Changing Landscape

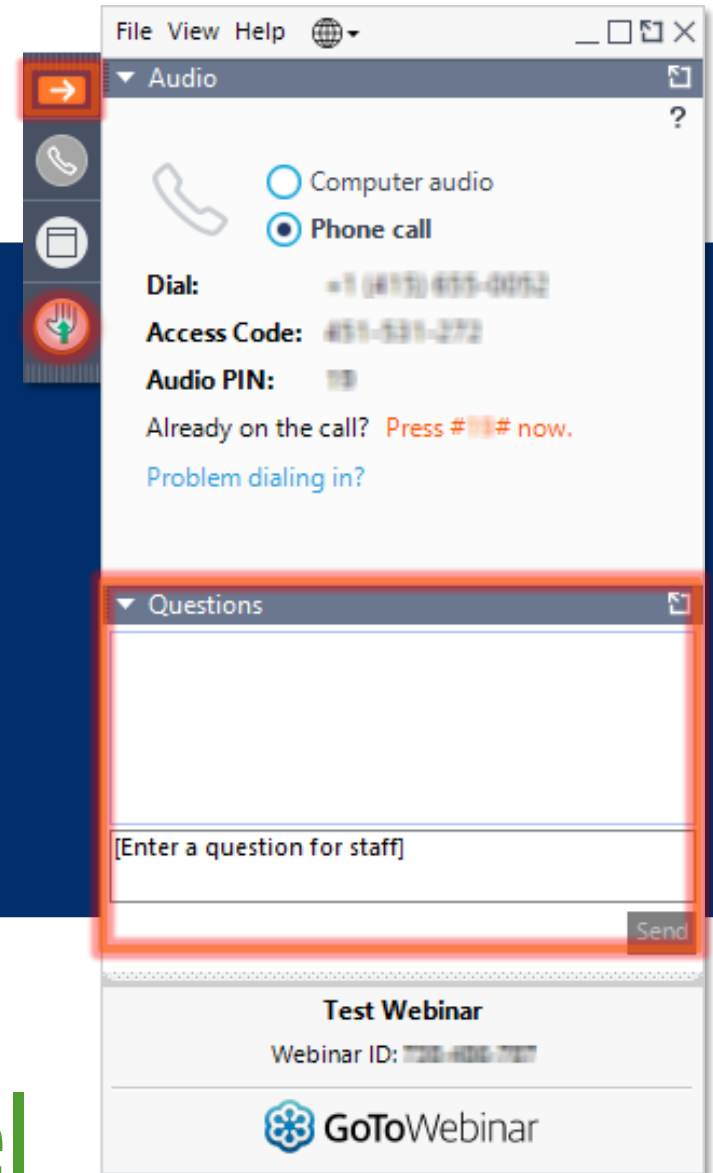
Thursday,
July 16, 2020
12:00 p.m. EST

- Select "Computer audio" to join via VOIP
- Select "Phone call" to dial in



Audio Instructions

- Grab Tab
- Handouts
- Questions



Attendee Control Panel

Objectives

- What to do when your employees test positive for COVID-19.
- Survey of current COVID-19 related litigation and risks for employers to consider.
- Updated guidance from the IRS regarding the CARES Act including an expanded definition of qualified individuals for coronavirus-related distributions and loans, a safe harbor procedure for implementation of the suspension of loan repayments, and accepting repayment of the coronavirus-related distributions.
- New guidance from the IRS on the waiver of the 2020 RMDs permitted under the CARES Act.



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Meet the Speakers

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TOPICS:

- What to do if an employee tests positive for COVID-19.
- Overview of current COVID-19 related litigation and risks for employers.

What Should Employers Do When An Employee Tests Positive For COVID-19?

- Response Plan
 - State Re-Open Orders
 - Guidance from CDC, OSHA, Etc.
- Personnel
 - Adequate numbers/time
 - Training

What Should Employers Do When An Employee Tests Positive For COVID-19?

- Response Plan Components:
 - Contact Tracing Process
 - Employee Notification
 - Vendors
 - Contractors
 - Customers

What Should Employers Do When An Employee Tests Positive For COVID-19?

- Response Plan Components:
 - OSHA
 - State OSHA
 - Workers Compensation

What Should Employers Do When An Employee Tests Positive For COVID-19?

- Response Plan Components:
 - State/Local Health Department Reporting
 - Protective Steps
 - Cleaning/Closure
 - Managing Positive Employee Leave and Return

Current Litigation and Risk Levels

- Employer Risk Scale (1 to 5 Masks):

Higher



Mid



Lower



Current Litigation and Risk Levels


- Palmer et al. v. Amazon.com, Inc. (New York)
 - Public Nuisance Claim

• Risk: 

Current Litigation and Risk Levels

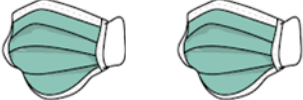
- Nuttall v. Progressive Parma Care Center, LLC (Ohio)

- FMLA Claim

- Risk: 

Current Litigation and Risk Levels

- Mattson, et al. v. WTS International, Inc. (Florida)
 - Non-compete Claim

- Risk: 


Current Litigation and Risk Levels

- Kalba v. Lee County RV Sales Company (Florida)
 - Whistleblower Claim

- Risk: 


Current Litigation and Risk Levels

- **Miarer v. Orthopaedic Institute of Ohio, Inc. (Ohio)**
 - Disability Discrimination Claim

- Risk: 

Current Litigation and Risk Levels

- Gasper v. Mack Industries (Ohio)
 - Age Discrimination

- Risk: 

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CRD and CRD Loans – Qualified Individual

- Participant, participant's spouse or dependent diagnosed with COVID-19
- Participant, participant's spouse or a member of participant's household experiences adverse financial consequences due to:
 - furlough, quarantine, lay-off, reduced work hours
 - reduction in pay/self-employment income
 - job offer rescinded or start date delayed
 - unable to work due to lack of childcare
 - closing or reducing hours of a business owned or operated by such individual

Qualified Individual – Self-Certification

- Reliance by plan administrator on participant certification
- Actual knowledge needed by plan administrator
- No duty to inquire by plan administrator

CRD – Tax Treatment

- Not subject to 10% early distribution tax
- Taxation can be pro-rated over three years
- CRD may be repaid over a three year period and reverse the tax consequences of the distribution

CRD - Administration

- CRDs include loan offsets
- CRD repayment is permitted - treated as a rollover contribution
- Section 402(f) rollover notice not required
- CRD reported on Form 1099-R
- Form 8915-E needed for favorable tax treatment

Plan Loan Suspension – Safe Harbor

- March 27, 2020 to December 31, 2020
- Loan repayments must begin no later than January 1, 2021
- Term of loan may be extended by one year from original due date
- Loan must be reamortized, including interest accrued during suspension, over a period one year longer than original term

Nonqualified Deferred Compensation

- CRD is deemed a hardship for Section 409A
- Allows cancellation of deferred compensation deferral election
- Election may not be postponed or delayed

Required Minimum Distributions

- Rollover treatment permitted for 2020 RMDs
- Extends normal 60-day rollover period to August 31, 2020
- May be rolled back to same plan, but only if plan permits
- Waiver of 2020 RMDs does NOT apply to defined benefit plans

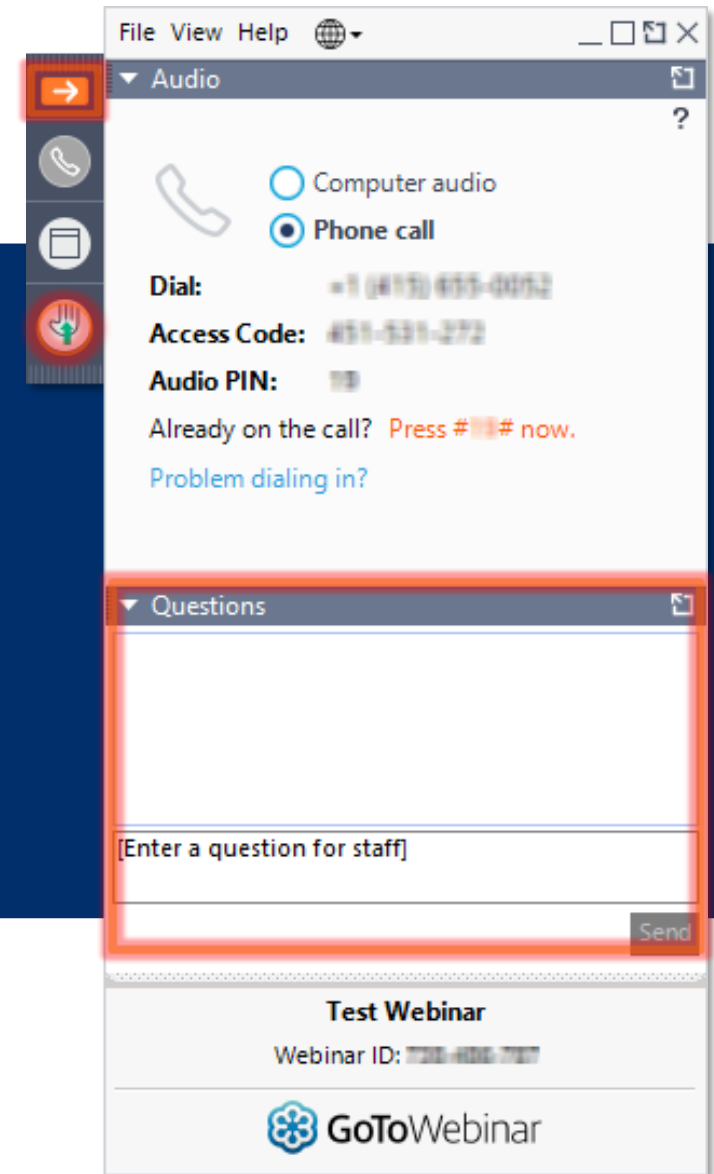
Safe Harbor 401(k) Plan – HCE Only Suspension

- Option One: Mid-year change that reduces only HCE contributions will not result in loss of safe harbor status
- Updated notices and election opportunity change must be given to HCEs to whom mid-year change applies

Safe Harbor 401(k) Plan – Mid-Year Change

- Option Two: Plan amendment may be adopted between March 31 and August 31
- Economic loss not required
- Statement in notice about right to amend not required
- Supplemental notice required by August 31 for safe harbor nonelective contributions, but plan amendment may not be retroactive
- 30 day notice still required for safe harbor match change

Please type your message/question in the window pane of the attendee control panel.



Questions?



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Contact Us

- Visit kmklaw.com to find our COVID-19 Response Team's most recent insights and analysis under the News & Resources and Blogs tabs.
- Subscribe to our Employee Benefits & Executive Compensation "Monthly Minute" Newsletter.

Monthly Minute

Employee Benefits & Executive Compensation

By: Lisa Wintershimer Michel, John F. Meisenhelder, Helana A. Darrow, Antoinette L. Schindel, and Kelly E. MacDonald

Most of us are familiar with the changes related to COVID-19 legislation including the CARES Act. In this *Monthly Minute*, we are highlighting some practical CARES Act administrative items that you will want to consider as well as pre-pandemic benefits changes and issues that can help guide plan sponsors through the long road ahead.

[READ MORE](#)



Additional Resources



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