



RETIREMENT PLAN SOLUTIONS

Insight from Alliance Benefit Group,
One of the Largest National Independent
Retirement Plan Providers



Founded in 1992 • Administration of Over 20,000 Plans and 1.3 Million Plan Participants • Over \$70 Billion in Assets Under Administration • Plans in All 50 States

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BORROWING FROM 401(K)S - SHORT-TERM SOLUTION, LONG-TERM IMPACTS

When 401(k)s were originally introduced by the IRS in 1981, a loan feature was included with the idea that the ability to access funds when needed, would help participants become more comfortable with contributing regularly to a 401(k).

Now-a-days, helping participants avoid the temptation to use their 401(k) as an emergency savings account is key. This is especially important at a time when many participants are not saving enough for retirement and may be tempted to borrow from their primary nest egg.



Why Participants Borrow

Understanding the negative long-term impacts of borrowing from a 401(k) can help participants think twice before considering this short-term and often short-sighted solution.

Participants often cite the following six reasons for borrowing from their retirement plan:

6 Reasons To Borrow*

1.	Paying off debt	46%
2.	Emergency funding	35%
3.	Buying or making improvements to a home	25%
4.	Income needed due to job loss	24%
5.	Education expenses	20%
6.	Special event: wedding or family vacation	15%

With no credit check required, typically a lower interest rate than a traditional loan and convenient loan payments via payroll deduction, a 401(k) loan may seem to be an attractive option for a participant trying to meet any of these six needs.

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UNDERSTANDING YOUR FIDUCIARY RESPONSIBILITY - ERISA 3(38), 3(21), 3(16)

Understanding Your Fiduciary Responsibility - ERISA 3(38), 3(21), 3(16)

The Department of Labor's ("DOL") efforts in 2016 to implement a new fiduciary standard for investment advice professionals also brought to light the need for increased awareness of the fiduciary responsibilities of 401(k) plan sponsors. As the IRS states on its website, "Many of the actions needed to operate a



qualified retirement plan involve fiduciary decisions – whether you hire someone to manage the plan for you or you do the plan management yourself." In short, handling the plan's assets, or using discretion in managing the plan, makes a person or entity a plan fiduciary.

Understanding that you share fiduciary responsibility as plan sponsors is helpful, but how your retirement plan is set up dictates exactly where the fiduciary responsibilities lie, whether based on ERISA sections 3(38), 3(21) or 3(16).

Understanding ERISA 3(38)

In a 3(38) fiduciary arrangement, the investment manager or advisor has full discretion to select investments and make decisions on behalf of the retirement plan, within the constraints

of an Investment Policy Statement. That policy statement is prepared by the plan administrator or trustee in consultation with the investment manager. Although this allows for less liability on the plan sponsor, it should be noted that ERISA dictates that the administrator or trustee is obligated to exercise prudence and judgment in choosing the investment manager.

How ERISA 3(21) Fits In The Picture

If your company hired an investment advisor to choose investments and make recommendations for the 401(k) plan, you may be surprised to know that you are still ultimately responsible for investment decisions. A 3(21) fiduciary arrangement specifies that the employer is actually a co-fiduciary with the third-party investment advisor. Fiduciary responsibility is shared as the advisor provides recommendations to an employer with respect to funds on an investment menu, but the employer retains the discretion to accept or reject the recommendations.

ERISA 3(16) Can Need Role Clarification

The term 3(16) specifically designates who will serve as the retirement plan administrator. If your firm has not outsourced the administrative functions of the plan, then the plan sponsor automatically operates as a 3(16) administrator and fiduciary by default and is liable in that regard.

A 3(16) fiduciary has responsibility to ensure the retirement plan is created and managed according to ERISA requirements and handles reporting and disclosure requirements, summary plan descriptions, participant disclosures, and the plan's IRS Form 5500 filing. The 3(16) named fiduciary is also responsible for evaluating and replacing, when necessary, all service providers who assist the retirement plan with its daily operations.

When it comes to outsourcing such a broad range of 3(16) services, there can be some confusion with regards to role from both the plan sponsor and vendor perspective. A knowledgeable retirement plan consultant can help clearly define roles and ensure a successful outsourced solution.

ABG Can Help

By outsourcing and working with both an investment manager or advisor acting in a fiduciary capacity under Rule Section 3(38) or 3(21) as well as outsourcing to a third-party plan administrator acting in 3(16) capacity, plan sponsors may reduce their fiduciary liability and improve the compliance of their company's retirement plan. However, keeping up-to-date on 401(k) plan rules and regulations is key. Consider ABG your resource for any questions you may have or solutions you may need in this area.

MAXIMIZING THE 20% TAX DEDUCTION WITH PROACTIVE RETIREMENT PLANNING

The Tax Cuts and Jobs Act introduced significant tax reform on both the personal and business level, the complexities of which continue to be worked through as they are implemented. In particular, tax reform has significantly impacted how business owners can maximize their retirement plans in order to maximize their deductions.

The new Section 199A business income deduction allows taxpayers, other than corporations, a deduction of 20% of qualified business income earned in a qualified trade or business, subject to certain limitations. Qualified trades and businesses include all trades and businesses except the trade or business activity involving the performance of services in the fields of health, law, accounting, actuarial science, performing arts, consulting, athletics, financial services, brokerage services and any trade or business, the principal asset of which is the reputation or skill of one or more of its owners or employees.

In this article we consider some of the issues surrounding Section 199A's qualified business income deduction and how retirement plans can play a part in maximizing that deduction.

The Impact Of The Tax Cuts and Jobs Act

According to John D. Blossom, Jr., the founder of Alliance Benefit Group, LLC and President and CEO of ABG Retirement Plan Services, *"Tax incentives have long been a significant driver in establishing and operating retirement plans, particularly among smaller businesses. Tax savings for owners, in many cases, have fueled meaningful contributions for retirement benefits for employees."* He continues, *"In my view, the Tax Cuts and Jobs Act is as significant to those who serve retirement plans as the ERISA was in 1974."*

With this context in mind, it is important to note that many businesses are "pass-through" entities for tax purposes, wherein the business income from an S Corporation, partnership or sole proprietorship passes through to the individual owners to determine income tax payable. Since individual tax rates are now typically higher than the new flat 21% corporate tax rate, tax reform includes a deduction of 20% of qualified business income in determining the income tax payable by the owner/taxpayer. This deduction phases out under certain circumstances and minimizing the phase-out to enjoy as much of the 20% deduction as possible with the help of a retirement plan is key.

Taxable Income Thresholds Determine Deductibility

For example, if the taxable income of an owner is below \$157,500, for a single taxpayer/owner, or \$315,000, for a married couple filing jointly, the full 20% deduction will apply to that taxpayer's share of qualified business income (up to 20% of the taxpayer's taxable income, not including capital gains).

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BORROWING FROM 401(K)S - SHORT-TERM SOLUTION, LONG-TERM IMPACTS

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Understanding The Long-Term Consequences

However, there are long-term consequences to borrowing from a retirement nest egg that participants need to consider including:

- » **Less Growth Potential:** Missing out on the potential for compound growth on the amount borrowed as it will no longer be invested.
 - A useful tool, Bankrate's retirement loan calculator shows how much less money will be available to a participant post-retirement as a result of taking a 401(k) loan. Click [here](#) to see Loan Calculator.
- » **Putting Everything On Hold:** A tendency by participants to reduce contributions or stop them altogether while repaying the 401(k) loan.
 - Thereby reducing the opportunity for compound investment growth and any employer match the participant would have received.
- » **Unforeseen Penalties:** Taxes and penalties if participants leave their employer prior to repaying the loan.
 - Employees who leave their jobs, are laid off or fired typically have to repay their loan within 60 days.
 - If they don't, the loan amount is considered a distribution, subjected to income tax and a 10% penalty if the borrower is under 59 ½ years old.



While building a retirement nest egg that will provide a comfortable retirement over their lifetime, participants need to understand the potentially negative impacts of borrowing from their 401(k)s. Ideally their retirement funds are growing in their retirement plans, not only unhampered by taxes, but free from the potential disruption in long-term savings that borrowing against a 401(k) may cause.

* Source: TIAA-CREF 2014 Borrowing Against Your Future Survey.

MAXIMIZING THE 20% TAX DEDUCTION WITH PROACTIVE RETIREMENT PLANNING

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That deduction is phased out over the next \$50,000, for single taxpayers and \$100,000, for married persons filing jointly. Earnings above the \$157,500 and \$315,000 thresholds result in the phase-in of a deduction limit which is either the:

- The lesser of 20% of the taxpayer/owner's taxable income or
- The greater of 50% of W-2 wages paid by the business or
- A limit of 25% of W-2 wages plus 2.5% of the unadjusted basis of tangible property held and used by the business

Managing The Deduction Through Retirement Plan Management

Qualified plan contributions may be the best way to stay below the phase-out income level with the flexibility to make contributions up to the \$55,000 annual maximum. These contributions serve as a direct deduction against qualified business income without increasing taxable personal income for the owner/taxpayer.

How to maximize Section 199A business income deductions via contributions to a qualified retirement plan is an important consideration for business owners. ABG is available as a resource to ensure that these owners can successfully maximize the 20% business income deduction they may be entitled to through careful management of their retirement plan contributions.

ABG Welcomes Two New Member Firms To The ABG Family

ABG is pleased to welcome two new member firms, BlueStar Retirement Services, Inc. and Columbia Benefits Consultants, Inc., to the ABG family.



Located in Ponte Vedra Beach, Florida, BlueStar Retirement Services is an independent recordkeeper and third-party administrator that has experienced rapid growth fueled by the intelligent application of technology and nationally-recognized expertise in the recordkeeping of multiple employer plans. “I am very excited that BlueStar has decided to join ABG,” said Don Mackanos, President of Alliance Benefit Group, LLC. “I know that BlueStar will contribute to the group in many ways. BlueStar is technologically advanced in their day-to-day operations. This has allowed them to grow in a relatively short period of time, providing services to over 100,000 participants.”



ABG is also expanding in the Mid-Atlantic area with new member firm Columbia Benefits Consultants, Inc., a leading consultant, administrator and recordkeeper of qualified retirement plans. “I was very happy when I heard that CBC was ready to join ABG,” said Don Mackanos, President of Alliance Benefit Group, LLC.

“By having a new ABG member firm right in the heart of the Chesapeake Bay area, we will now have a bigger presence with retirement advisors in such a busy part of the country.”

ABG’s Experience Spans Decades

When you add up the number of years ABG’s 18 member firms have been in business, it’s a staggering 769 years in total. That averages over 40 years per firm. ABG member firms offer a depth and breadth of expertise firmly rooted in decades of helping clients reach their retirement plan goals. Join us in celebrating the significant anniversaries celebrated in 2017 and 2018 for the following member firms:

2018 Anniversaries

- Pentegra - 75 Years
- Nyhart - 75 Years
- ABG Retirement Plan Services - 50 Years
- Spectrum Consultants - 40 Years
- Alliance Benefit Group of Houston - 40 Years
- BPAS - 45 Years

2017 Anniversaries

- Pension Corporation of America - 40 Years
- Sentinel Benefits - 30 Years

DID YOU KNOW?

- By 2025, Millennials will comprise 75% of the workforce¹, and they stand to inherit \$30 trillion in wealth.² (Source ¹ The Brookings Institution and ² Accenture Consulting)
- According to the Social Security Administration, just \$4 out of every \$10 of the average American worker’s pre-retirement salary will be replaced by Social Security retirement benefits.
- Younger 401(k) plan participants have large allocations to target date and other types of balanced funds, according to a joint study by the Investment Company Institute (ICI) and the Employee Benefit Research Institute (EBRI). At year-end 2016, 64% of 401(k) participants in their twenties held target date funds, compared with 45% of 401(k) participants in their sixties.

TAX TALK

In this issue of Tax Talk, we update you on important upcoming compliance deadlines for defined contribution plans. We also take a quick look at the importance of meeting Required Minimum Distribution deadlines from both the plan sponsor and participant perspective.

Upcoming Compliance Deadlines

December 2018	
Date	Deadline
Dec. 1	» Deadline for sending annual 401(k) safe harbor notice. » Deadline for sending annual automatic contribution arrangement notice. » Deadline for sending annual qualified default investment alternative (QDIA) notice.
Dec. 15	» Extended deadline for distributing Summary Annual Report (SAR) to participants.
Dec. 31	» Deadline for processing corrective distributions for failed prior year ADP/ACP test with 10% excise tax. » Deadline for correcting a failed prior year ADP/ACP test with qualified nonelective contributions (QNEC). » Deadline for amendment to convert existing 401(k) plan to safe harbor design for next plan year. » Deadline for amendment to remove safe harbor status for next plan year. » Deadline for amending plan for discretionary changes implemented during plan year. » Required Minimum Distributions due under IRC Section 401(a)(9).
January 2019	
January 31	» Deadline for sending Form 1099-R to participants who received distributions during the previous year.

The Importance of Taking Required Minimum Distributions

Typically, the IRS requires retirement plan participants to start taking required minimum distributions (RMDs) from their retirement plan by April 1st of the calendar year following the calendar year in which a participant turns 70 ½.

Planning for and keeping track of these distributions is key, as there are significant penalties for both the plan sponsor and plan participant if this important deadline is not met.

- **Retirement Plan Sponsors**
 - » **Need to have** - a program in place to ensure that all participants, whether they are still working or retired, are aware of the upcoming RMD deadline and the penalties for missing the deadline.
 - » **The penalty is** - the potential loss of a retirement plan's tax-qualified status if the RMD is not met.
- **Retirement Plan Participants**
 - » **Need to take** - an actuarially determined distribution which can be calculated using tables provided by the IRS on their website by clicking [here](#):

Typically, the calculation for determining the distribution entails taking the account balance at the end of the preceding year and dividing it by a distribution period taken from the IRS's Uniform Lifetime Table, which is available on their website using the link above.

- » The penalty for not paying an RMD in a timely manner is as much as 50% of the amount not distributed to the retirement plan participant.

ABG Can Help

For any questions about the RMD deadline or any other compliance deadline outlined here, please contact your local ABG representative.