Employee savings: even in the event of retirement, the full withdrawal of funds does not result in the closure of the company savings plan

Retirement is often an opportunity for the employees concerned to withdraw their employee savings funds in full. The retired employees often think that, having left professional life and withdrawn all their funds from the company savings plan, the latter is closed. This is not automatically the case, as I explain in this month’s case.

**The facts**

Following the termination of her employment contract due to her retirement on 3 January 2018, Ms. B., who holds a company savings plan, requested the early withdrawal of all her funds for this reason.

In asking for the liquidation of her company savings plan, Ms. B. thought that the latter would be closed. However, she was very surprised to find out later that her voluntary contributions of EUR 120 per month, set up prior to her departure from the company, were still collected in January and February 2018.

Ms B. then asked for the automatic debits to be halted, together with the reimbursement of the two voluntary payments that were, in her view, withdrawn wrongfully.

Her account keeper refused to make such a reimbursement and Ms. B then contacted me.

**The instruction**

After analysing Ms. B's request, I interviewed her company savings plan account keeper. The latter informed me that Ms. B. had been making voluntary payments of EUR 120 a month since 28 February 2017.

The account keeper also told me that, according to Article 2-Beneficiaries of Ms. B's company savings plan, *"Former employees who have left the company as a result of retirement or early retirement may continue to make payments to the Plan, provided that they have made at least one payment before their departure, without benefiting however from the matching contribution*.*"*

On this point, it should be noted that this option is provided for under Article L. 3332-2 of the French Labour Code, which states that: *"Former employees who have left the company following retirement or early retirement can continue to make payments to the company savings plan*.*"* In fact, retirement is the only case where, after termination of the employment contract, retired employees can continue to make voluntary payments to their company savings plan and pay into it automatically or on an occasional basis.

According to the account keeper, in view of this possibility, and without any specific instruction from Ms. B., it was impossible for him to know whether Ms. B. wished to end the scheduled voluntary payments.

In the light of these points, the account keeper initially refused to reimburse the scheduled voluntary contributions paid in to the plan after Ms. B.'s retirement, considering that there was no dysfunction on the part of its services.

**The recommendation**

However, I got back in touch with the account keeper, with whom I argued that Ms. B. had believed, in good faith, that in seeking the settlement of her employee savings plan because of her retirement, the latter would be closed and the monthly voluntary payments of EUR 120 would stop automatically.

I further stated that this belief was all the more understandable because it appeared that Ms. B. had not been informed that the liquidation of her company savings plan did not result in the automatic termination of her scheduled voluntary contributions.

I thus asked the account keeper whether, in the light of these details, he would agree to review his position and to repay Ms. B. the balance of her company savings plan, which he agreed to do on an exceptional basis.

**The lesson to be learnt**

*For employee savers*: it is indeed the case that retired savers equate the full withdrawal of their employee savings funds with the closure of their plan. This confusion is understandable given the ambiguity of the term "withdrawal" and the situation in which the new retirees find themselves, as they may legitimately think that once all the funds are withdrawn, the plan is closed. However, when the reason for the total withdrawal of the assets is retirement, as in the present case, this does not in itself entail an instruction to close the company savings plan insofar as the plan could be funded again by subsequent voluntary payments.

To avoid any unpleasant surprises, savers requesting the withdrawal of their funds for the reason of "Retirement" should be aware of this particularity and, consequently, not forget to expressly request the termination of automatic voluntary payments.

*For account keepers*: account keepers should set out more clearly – for example, on their website – the distinction between the withdrawal of funds and the closure of the employee savings plan, these two operations being very different. Moreover, they should draw the attention of savers to the fact that, unless otherwise instructed, the withdrawal of funds does not result in the closure of the plan, particularly when retirement is the reason given for withdrawing the funds.