

CARES ACT – Retirement Plan Provisions

Coronavirus-Related Distributions

Currently, if you take money out of a qualified retirement plan before age 59½, you not only pay income tax on the distribution, but generally a 10% penalty applies as well. There are several exceptions to the penalty, of course, and the CARES Act adds a new, optional one, allowing a taxpayer to take a “coronavirus-related distribution” of up to \$100,000 in the year 2020 free from penalty, generally available for distributions made on or before December 31, 2020.

These distributions are subject to the following requirements:

- Limited to \$100,000 per tax year, aggregated across all plans of the employer or controlled group.
- Not subject to 20% mandatory tax withholding upon distribution.
- Exempt from 10% early withdrawal penalty generally applicable to distributions made to participants who are 59-1/2 or younger.
- Eligible to be indirectly rolled into an IRA or employer plan within 3 years from the date the distribution is taken.
- Amounts not indirectly rolled into an IRA or employer plan are included in gross taxable income, ratably, over 3 tax years (beginning with the tax year of the distribution), unless the participant elects to include all amounts in a single tax year.

Coronavirus-related distributions are available to “eligible” participants who:

- Are diagnosed with a coronavirus (COVID-19 or SARS-CoV-2) illness.
- Have a spouse or dependent diagnosed with a coronavirus illness.
- Experience “adverse financial consequences” as a result of a quarantine, furlough, lay-off, reduction in work hours, business closure, the lack of child care, or other factors determined by the IRS due to the coronavirus emergency.

While a participant’s written certification of the above is required, the Plan Administrator may rely on a participant’s self-certification.

Expanded Participant Loan Provisions

For a plan with existing participant loan provisions, or one amended to now permit participant loans, two optional expanded loan provisions are available as follows. Applies only to “eligible” participants as listed above.

1. Increased Loan Limits (increase loan limit starts on March 27, 2020 and is applicable for 180 days)

Some pension plans may allow a participant to take a loan from the plan which is backed by their own vested balance in the plan. Currently, the participants could avail a loan of the lesser of:

- (i) \$50,000, or
- (ii) 50% of the participants vested account balance.

These provisions have been modified and the loan amounts now the lesser of:

- (i) \$100,000, or
- (ii) 100% of the participants vested balance



2. In addition, participants who take a loan from a pension plan are required to make repayments per the terms of the loan. The repayment schedule could be biweekly, bimonthly, monthly, or quarterly. If a participant fails to make these repayments, the loan is considered defaulted (after a statutory cure period) and the outstanding loan amount is considered as taxable income.

A participant may postpone payments on both new and existing plan loans that would have been due between March 27, 2020 and December 31, 2020 for up to one year. The suspension period is to be added to the original loan term when repayments, including accrued interest, resume, regardless of the length of the loan's original term.

Required Minimum Distributions (RMD) for 2020

The RMDs for 2020 are calculated based on the account balances on 12/31/2019. Since the stock markets have sold off significantly from those levels, participants will have to sell more equity to achieve the same dollar amount of taxable distribution. Therefore, **the CARES Act seeks to temporarily waive off the RMD for 2020 for certain defined contribution plans and IRAs.** (Note that RMDs from Defined Benefit plans and Money Purchase Plans are not waived off).

In addition:

- Beneficiaries receiving life expectancy payments will not be required to receive their 2020 beneficiary RMD.
- Beneficiaries who have an account balance in the plan subject to the five-year distribution rule may extend their required distribution by one year (full distribution of the account must be made by the 6th anniversary of the participant's death).