

IRS Releases Guidelines for Coronavirus-Related Distributions and Loans Taken from Retirement Plans Under the CARES Act

The CARES Act, passed by Congress and signed into law by the President to provide coronavirus-related relief, temporarily modified certain distribution and loan rules that apply to employee retirement plans. The goal of these changes is to provide "qualified individuals" with greater flexibility to access funds from certain retirement plans, including 401(k)s, 403(b)s, and IRAs.

On Friday, the IRS issued [Notice 2020-50](#) which provides more specific guidance to employers and employees about who is considered a qualified individual, how individuals certify they are qualified, how distributions and loans must be listed on one's federal taxes, and to what extent these changes must be implemented by employers and plans.

Who is Now Considered a Qualified Individual?

The CARES Act allowed the Secretary of the Treasury to define other factors that would make someone a qualified individual in addition to those listed in the original Act. Notice 2020-50 expanded the definition of "qualified individual" to include those who experience a reduction in pay (including those who are self-employed) as well as those who have a job offer rescinded or start date delayed.

Additionally, the IRS clarified that individuals may utilize these retirement plan benefits if *their spouse or a member of their household* experiences one of the qualifying adverse financial consequences—an expansion of the previous requirement that the plan holder his/herself had to experience the adverse financial consequence.

New Tax Treatment for Distributions

Typically, any early distributions taken from such retirement plans are subject to a 10% penalty tax and are included as part of one's gross income for tax purposes the year the distribution is made. Under the CARES Act, however, distributions made to qualified individuals on or after January 1, 2020, and before December 31, 2020, and which do not exceed \$100,000 (a cumulative maximum regardless of whether multiple distributions are taken from various plans) are classified as "coronavirus-related" and are not subject to the 10% tax. Additionally, such distributions may be included in one's gross income ratably over *three* years.

Notice 2020-50 explains that in order to qualify for this favorable tax treatment, coronavirus-related distributions must be reported on one's 2020 federal income tax return using Form 8915-E (which will be released later this year). The Notice also clarifies that the decision to classify distributions as coronavirus-related is optional for employers and plans; however, even if a distribution is not classified as coronavirus-related, qualified individuals whose distributions meet the above requirements will still receive this favorable federal tax treatment.

Increased Borrowing and Delayed Repayments for Plan Loans

Many retirement plans, such as 401(k)s, 403(b)s, and 457s, also allow plan holders to borrow money from the account as a loan. Under normal circumstances, the cap on such loans is \$50,000 or 50% of the plan holder's vested balance, whichever is less. Such loans must also be repaid in five years. Under the CARES Act, employers may elect to increase that cap to the lesser of \$100,000 or 100% of the vested account balance for loans made to qualified individuals from March 27, 2020 to September 22, 2020.

The CARES Act also allows employers to delay plan loan payments due between March 27, 2020 and December 31, 2020. Notice 2020-50 outlines a safe harbor procedure that plans and employers can implement to accommodate such delays without violating the standard IRS plan loan requirements. Specifically, the Notice clarifies that any such delays that are properly implemented will not result in a violation of the five-year repayment requirement. Under this procedure, employers and plans can adjust repayment rates to allow for payment of the outstanding balance by one year after the original due date and resume collecting such payments January 1, 2021. Finally, similar to the rules for distributions, the Notice clarifies that it is optional for plans and employers to implement these changes for their plan loan programs.

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