

Benefits in Focus

PLAN SPONSOR NEWSLETTER

Frequently Asked Questions on the CARES Act (FAQs) – Part II

The CARES Act (Coronavirus Aid Relief and Economic Security Act) includes several retirement plan provisions, many of which allow plan participants who are experiencing COVID-19 related consequences to access their plans' funds through certain distributions and loans that are not ordinarily permitted. The previously provided Frequently Asked Questions ("FAQs") have been updated to include new guidance provided by IRS Notice 2020-50, "Guidance for Coronavirus-Related Distributions and Loans from Retirement Plans Under the CARES Act." Several new FAQs have been added as well, to address additional information recently released by the IRS with respect to the CARES Act retirement related provisions. **These updated FAQs replace and supplement the prior FAQs.**

During this difficult time, USI is here to support our clients and will continue to monitor this fast-evolving situation and provide you with up to date information. As always, if you have questions or would like more information on this topic, please contact your USI Consulting Group representative.

Qualified Individuals

Who is considered a "Qualified Individual" under the CARES Act, for purposes of determining the individual's eligibility to receive certain CARES Act relief (including Coronavirus-Related Distributions and Loans)?

Under the CARES Act only a "Qualified Individual" is eligible for certain relief under the CARES Act. The IRS Notice 2020-50 expanded the list of "Qualified Individuals" to include all of the following: A participant who has either been diagnosed with COVID-19, or whose spouse or dependent has been diagnosed with COVID-19; or a participant, participant's spouse, or member of a participant's household (as defined below), who has experienced adverse financial consequences as a result of COVID-19 due to the individual's quarantine, furlough, reduction in work hours, reduction in pay (or self-employment income), inability to work due to lack of child care, or a job offer rescinded, or a start date for a job delayed, or the closing or reduction of hours of a business owned or operated by the individual due to the virus.

A "household member" is someone who shares the individual's principal residence. For example, a partner, roommate, or boarder, etc. may be considered household members if their income contributes to the household.

If the plan sponsor extends the relief allowed under the CARES Act to participants, does the plan sponsor have to verify a participant is a "Qualified Individual"?

No. The plan sponsor may rely on the employee's "self-certification" that the participant meets the definition of a "Qualified Individual," unless the plan sponsor has actual knowledge that the individual does not qualify. IRS Notice 2020-50 confirmed that actual knowledge does not require the plan sponsor to request proof or to otherwise inquire into the participant's status.

If a plan sponsor extends the relief allowed under the CARES Act to participants, does the plan sponsor have to limit the amount of Coronavirus-Related Distributions and Loans to the amount of the participant's need?

No. Notice 2020-50 confirmed that Coronavirus-Related Distributions and Coronavirus-Related Loans are not "need" based. For example, an individual who satisfies the definition of a "Qualified Individual" is permitted to receive the maximum Coronavirus-Related Distribution amount without regard to the individual's financial need for funds.

Coronavirus-Related Distributions

Can participants who are affected by Coronavirus take a distribution from a defined contribution plan?

Yes. If the plan sponsor permits, the CARES Act allows "Qualified Individuals" to make a Coronavirus-Related Distribution of up to \$100,000 from a defined contribution retirement plan from January 1, 2020 and before December 31, 2020. These distributions are not subject to the 10% early withdrawal

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The information contained herein is meant for general educational purposes only.

penalty or the 20% mandatory income tax withholding. Also, income tax on the distribution may be paid ratably over a period of three years and participants have the option to repay the distribution back to the plan within three years of the distribution.

Can a Coronavirus-Related Distribution be permitted from defined benefit plans?

Yes, it's possible, but in a more limited way than under defined contribution plans. The CARES Act does not add a distribution option for defined benefit plans nor does it change when distributions can be made from defined benefit plans. For example, under the terms of the plan terminated vested participants may be permitted to receive lump sum distributions at any age, while active employees may only be permitted to receive an in-service distribution no earlier than the age of 59 ½. Once a distribution is made from a defined benefit plan, amounts of up to \$100,000 can be considered Coronavirus-Related Distributions if made from January 1, 2020 and before December 31, 2020 to "Qualified Individuals", and can receive the favorable tax treatment.

Are plan sponsors required to allow participants to take a Coronavirus-Related Distribution?

No. The Coronavirus-Related Distribution is an optional provision, meaning plan sponsors are not required to offer Coronavirus-Related Distributions to their plan participants.

If a plan sponsor does elect to adopt Coronavirus-Related Distributions, how does the plan sponsor report the Coronavirus-Related Distributions?

IRS Notice 2020-50 provides tax reporting instructions for plan sponsors who allow Coronavirus-Related Distributions. If the plan sponsor is treating the payment as a Coronavirus-Related Distribution and no other appropriate code applies, the plan administrator is permitted to use distribution code 2 (early distribution, exception applies) in box 7 of Form 1099-R. Alternatively, the plan administrator is permitted to use distribution code 1 (early distribution, no known exception) in box 7.

If a plan sponsor does not elect to provide the provisions under the CARES Act, can a participant still treat a distribution as a Coronavirus-Related Distribution?

Yes. Any permissible distribution (up to \$100,000) under the terms of a defined contribution or defined benefit plan (i.e., in-service distribution, hardship withdrawal, distribution due to termination of employment) that is received between January 1, 2020 and before December 31, 2020 by a participant or beneficiary who is a "Qualified Individual" can generally be considered a Coronavirus-Related Distribution and receive the favorable tax treatment. The recipient's ability to treat the distribution as a Coronavirus-Related Distribution, provided he/she is a "Qualified Individual", is not dependent on how a plan treats the distribution.

Additionally, IRS Notice 2020-50 clarified that a Qualified Individual should use IRS Form 8915-E when filing their federal income taxes to report any Coronavirus-Related Distribution received by the individual, which is a new form to be created by the IRS for this purpose.

Are plan sponsors required to allow participants to retribute Coronavirus-Related Distributions to the plan?

The IRS expects that plans will allow recontributions of Coronavirus-Related Distributions, if the plan otherwise allows rollover distributions. However, there is no requirement that plans which do not allow rollovers to accept recontributions of Coronavirus-Related Distributions. IRS Notice 2020-50 further clarified that the plan administrator of an eligible retirement plan may rely on an individual's certification that the individual satisfies the conditions to be a Qualified Individual in determining whether a prior distribution was a Coronavirus-Related Distribution for the purpose of accepting a retribution, unless the plan administrator has actual knowledge to the contrary.

Plan Loan Relief

Does the CARES Act provide participant loan relief?

Yes. If the plan sponsor permits, for "Qualified Individuals", the CARES Act increases the plan loan limits up to the lesser of \$100,000 or 100% of the participant's vested account balance (from the existing limit of the lesser of \$50,000 or 50% of the participant's vested account balance). However, such increased limits are only applicable to loans made within a 180 day period from March 27, 2020 to September 23, 2020.

Is there any relief for participant's who can't make their loan repayments?

Yes. If the plan sponsor permits, the CARES Act provides that any loan repayments (whether for a new loan or an existing loan) due during the period from March 27, 2020 to December 31, 2020, for "Qualified Individuals", can be delayed for a period of one year. Also, the five-year repayment period will disregard the 2020 delayed period.

Are plan sponsors required to expand the loan provisions under the CARES Act?

No. The expanded loan provisions under the CARES Act are optional provisions. Plan sponsors are not required to add these provisions to their existing loan program.

If the plan sponsor adopts Coronavirus-Related Loan repayment delays, when must repayments resume?

IRS Notice 2020-50 provided a safe harbor method for resuming the loan repayments. Under the safe harbor method, any delayed loan repayment by a Qualified Individual beginning on or after March 27, 2020 and ending on or prior to December 31, 2020 (i.e., the suspension period) must resume as of the end of the suspension period (January 2021) and the term of the loan may be extended by up to 1 year from the date of the loan was originally due to be repaid. Additionally, any subsequent repayments of the loan shall be appropriately adjusted to reflect the delay and any interest accruing during the delay.

Required Minimum Distribution Waiver**Are participants still required to take Required Minimum Distributions (RMDs)?**

No. The CARES Act waives the required minimum distribution requirements applicable to defined contribution plans for the 2020 calendar year. The waiver applies to any RMDs required in 2020, including participants who turned age 70½ in 2019 but who did not yet receive their first RMD for 2019 (as required by April 1, 2020). For these individuals no RMDs are required for 2019 and 2020.

If Required Minimum Distributions (RMDs) were already made to participants, is there any relief to participants?

Yes. In the event that a participant previously received an RMD in 2020 without having had the opportunity to rollover such amounts within the 60-day rollover period, Notice 2020-51 "Guidance on Waiver of 2020 Required Minimum Distributions" extended the 60-day rollover period deadline until the later of August 31, 2020 or 60 days after the date of distribution.

Plan Funding Relief**Is there any relief for defined benefit plans under the CARES Act?**

Yes. The CARES Act temporarily allows employers sponsoring single employer pension plans, including money purchase plans, to defer any required minimum contributions that are due during 2020 until January 1, 2021. This includes the ability to defer required quarterly contributions. It is important to note, however, that the delayed payment will include interest, increasing the total amount due and payable on January 1, 2021.

If a plan suspends safe harbor contributions mid-year, is there any relief from the economic loss and/or notice requirements?

IRS Notice 2020-52, "COVID-19 Relief and Other Guidance on Mid-Year Reductions or Suspensions of Contributions to Safe Harbor Section 401(k) and 401(m) Plans" provided relief by not requiring that the employer prove that they are operating at an economic loss or requiring prior disclosure in the annual safe harbor notice. However, the employer must still provide a safe harbor notice of suspension/reduction 30 days prior to the effective date of the suspension/reduction for all safe harbor matching contributions. For safe harbor nonelective contributions, the safe harbor notice of suspension/reduction can be provided after the suspension/reduction, but not later than August 31, 2020.

Plan Amendments and Other Requirements**Does the plan need to be amended in order to incorporate the CARES Act retirement related provisions?**

Yes. Notice 2020-54, "Guidance on Reporting Sick Leave Wages and Qualified Family Leave Wages Pursuant to the Families First Coronavirus Response Act" clarified that employers are required to report the amount of qualified sick and family leave wages paid to employees under the Families First Coronavirus Response Act (FFCRA) on Form W-2. Regarding retirement plans, employers should review the definition of compensation under their plans. Plans that use W-2 compensation as the definition of compensation should take steps to ensure that they are including such amounts as plan compensation.

Does the Families First Coronavirus Response Act ("FFCRA") impact the definition of compensation under retirement plans?

Yes. Notice 2020-54, "Guidance on Reporting Sick Leave Wages and Qualified Family Leave Wages Pursuant to the Families First Coronavirus Response Act" clarified that employers are required to report the amount of qualified sick and family leave wages paid to employees under the Families First Coronavirus Response Act (FFCRA) on Form W-2. Regarding retirement plans, employers should review the definition of compensation under their plans. Plans that use W-2 compensation as the definition of compensation should take steps to ensure that they are including such amounts as plan compensation.

Your USI Consulting Group representative is available to assist you with any questions you may have related to the CARES Act, as well as other retirement plan related issues that may have arisen in connection with the pandemic. As always, feel free to contact us with your questions and concerns. We will continue to provide updates on the CARES Act and other regulatory and legislative developments.