

COMPLIANCE BULLETIN



CARES Act Makes Changes for Retirement Plans

On March 27, 2020, President Trump signed the [Coronavirus Aid, Relief and Economic Security Act](#) (CARES Act) into law to address the COVID-19 crisis. The CARES Act makes a variety of changes affecting retirement plans. These changes affect tax-qualified retirement plans, such as 401(k) plans, 403(a) and 403(b) plans, and governmental 457(b) plans.

The CARES Act includes the following changes for employer-sponsored retirement plans:

- ☑ Employers may allow participants who have been impacted by COVID-19 to take in-service distributions of up to \$100,000, without paying the tax penalty for early distributions;
- ☑ Employers that allow plan loans may increase the loan amount and extend the repayment period for participants impacted by COVID-19; and
- ☑ Required minimum distributions are waived for 2020 for participants in defined contribution plans, such as 401(k), 403(b) and governmental 457(b) plans.

Action Steps

Employers that sponsor tax-qualified retirement plans should become familiar with the CARES Act changes for their plans. Employers should work with their retirement plan advisors to implement changes for their plans.

Employers should communicate these changes to employees through a summary of material modifications (SMM).

Retirement plan documents must also be amended for the changes, but the deadline for making these amendments will not be earlier than the last day of the first plan year beginning after Jan. 1, 2022 (that is, Dec. 31, 2022 for calendar year plans).

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Retirement Plan Changes

- The CARES Act allows employers to make some changes to their retirement plans to assist participants impacted by COVID-19.
- COVID-19-impacted participants may be eligible for in-service distributions without a 10% penalty tax.
- COVID-19-impacted participants may be able to take greater loans with a longer repayment period.
- Required minimum distributions are waived for 2020.

Important Dates

Calendar Year 2020

Required minimum distributions are waived for defined contribution plans for 2020.

Dec. 31, 2020

COVID-19-impacted participants can receive in-service distributions of up to \$100,000 without the early distribution tax through Dec. 31, 2020.

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COVID-19-Related Distributions

Under the CARES Act, employers that sponsor retirement plans may allow participants who have been impacted by COVID-19 to take an **in-service distribution of up to \$100,000 without paying the 10% penalty tax for early distributions**. Eligible participants may receive these penalty-free distributions from Jan. 1, 2020 through Dec. 31, 2020.

Participants Impacted by COVID-19

A participant is impacted by COVID-19 if:

- The participant is diagnosed with COVID-19;
- The participant's spouse or dependent is diagnosed with COVID-19; or
- The participant experiences adverse financial consequences as a result of:
 - Being quarantined, furloughed or laid off or having work hours reduced due to COVID-19;
 - Being unable to work due to lack of child care due to COVID-19;
 - Closing or reducing hours of a business owned or operated by the participant due to COVID-19; or
 - Experiencing other factors as determined by the Secretary of the Treasury Department.

Plan administrators may rely on an employee's certification that he or she satisfies one or more of these eligibility factors.

Unless the participant elects otherwise, the amount of the distribution is included proportionally in the participant's taxable income over a three-year period, beginning with the year of distribution. Also, employers that permit these distributions must allow participants to repay the distribution at any time during the three-year period following the distribution. The distribution can be repaid in one or more installments during this period, and does not have to be repaid in full.

Plan Loans

If an employer's retirement plan permits loans, the CARES Act allows the employer to **increase the maximum loan amount and extend the repayment period** for loans made during the 180-day period beginning on March 27, 2020, to participants impacted by COVID-19, as described above.

The maximum loan amount for participants impacted by COVID-19 may not exceed the lesser of:

- \$100,000 (increased from \$50,000); or
- The present value of the employee's nonforfeitable accrued benefit under the plan (increased from one-half of the employee's nonforfeitable accrued benefit under the plan).

In addition, the deadline for any loan repayments that are due between March 27, 2020 and Dec. 31, 2020, is **delayed for one year** for participants impacted by COVID-19. When this delay applies, any subsequent repayments must be appropriately adjusted to reflect the delay in the due date and any interest accruing during the delay. Also, the delay is disregarded in determining the five-year maximum loan period.



Required Minimum Distributions

Federal tax law requires all retirement plan participants to start taking distributions (called required minimum distributions) by the time they reach age 72 (or age 70-1/2 for participants who reached age 70-1/2 before Jan. 1, 2020). The CARES Act waives the requirement to make required minimum distributions during 2020 for defined contribution plans (for example, 401(k), 403(b) and governmental 457(b) plans).