

CARES Act – Sec. 2202 Special Rules for Use of Retirement Funds – Quick Reference

In General

Section 2202 of the CARES Act waives the 10% early withdrawal penalty for distributions up to \$100,000 for coronavirus-related purposes, retroactive to Jan. 1. Withdrawals are still taxed, but taxes are spread over three years, or the taxpayer has the three-year period to roll it back over into the plan or an IRA. Furthermore, the loan limit is increased from \$50,000 to \$100,000.

Details

Coronavirus-Related Distributions

Plans may allow in-service distributions from a plan participant's vested account balance without regard to normal withdrawal restrictions. This relief is available through December 31, 2020.

These distributions are subject to the following requirements:

- Limited to \$100,000, aggregated across all retirement plans of the employer or controlled group.
- Not subject to the 20% mandatory tax withholding upon distribution.
- Exempt from 10% early withdrawal penalty generally applicable to distributions made to participants who are 59 ½ years-old or younger.
- Eligible to be indirectly rolled into an employer plan or an IRA within 3 years from the date the distribution is taken
- Amounts *not* directly rolled into an employer plan or an IRA are included in the gross taxable income, ratably, over three (3) tax years (beginning with the tax year of the distribution), unless the participant elects to include all amounts in a single 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.
- Experience "adverse financial consequences" as a result of a quarantine, furlough, lay-off, reduction in work hours, business closure, the lack of childcare, or other factors determined by the IRS due to the coronavirus emergency

Coronavirus-Related Loan Relief

Two types of loan relief were also provided:

- Plans may allow eligible participants, as defined above, to take loans up to the lesser of \$100,000 or 100% of the participant's vested account balance.
- Upon the request of an eligible participant, plan sponsors must suspend loan repayments due on outstanding loans that are in good order for a period of 12 months. This relief expires on December 31, 2020. However, this 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.

Waiver of 2020 Required Minimum Distributions (RMDs)

Qualified 401(a)/(k), 403(b), and governmental 457(b) plans will not be required to make any RMD payments for 2020; specifically:

- Participants who turned age 70½ *prior* to 2019 will not be required to receive an ongoing RMD for 2020.
- Participants who turned age 70½ *in* 2019 and who did not receive their first RMD for 2019 on or before January 1, 2020 will not have to receive their first (2019) RMD or their 2020 RMD.

Plan Sponsor Planning Notes

1. The coronavirus-related distribution and increased loan limits are optional plan provisions; as such, plan sponsors will need to evaluate which course of action is best for their respective plans. Given the emergency, many plan recordkeepers are using negative consent elections. In other words, unless the plan sponsor directs the recordkeeper *not* to allow for these new provisions, participants will have these new options available to them. Please contact your recordkeeper or retirement plan adviser if you are uncertain of the status of your plan.
2. Participants who are furloughed or laid off, but continue as active employees, may also suspend loan payments for up to one year of unpaid leave. Plan sponsors should work directly with their plan recordkeeper to ensure they provide the correct employment status for these participants so that loan repayment suspensions and other plan rights, including the in-service distribution options detailed above, are properly administered. Note: if a participant is laid off or furloughed, do not provide your plan recordkeeper with a termination code or date.