



A Robinson+Cole Legal Update

Coronavirus (COVID-19)

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IRS Provides Additional Guidance on CARES Act Retirement Plan Distributions and Loans

Authored by [Bruce B. Barth](#), [Virginia E. McGarrity](#), and [Alisha N. Sullivan](#)

On June 19, 2020, the IRS issued [Notice 2020-50](#), which provides additional guidance pertaining to coronavirus-related distributions and qualified plan loans made pursuant to the CARES Act enacted on March 27, 2020, as well as deferral elections made with respect to nonqualified deferred compensation plans for the 2020 calendar year [see [legal update](#)]. Please note that the CARES Act is a new law and agency guidance continues to be issued. Therefore, you may want to seek advice of counsel with respect to these issues.

Coronavirus-Related Distributions

The CARES Act permits certain qualified individuals to receive favorable tax treatment with respect to coronavirus-related distributions from eligible retirement plans. The CARES Act defined "qualified individual" as anyone who:

- Self-certifies that they, or their spouse or dependent, were diagnosed with COVID-19; or
- Experienced an "adverse financial consequence" as a result of being:
 - quarantined, furloughed, laid off, or having a reduction in hours;
 - unable to work due to lack of childcare; or
 - unable to work because their business was forced to close or reduce hours.

The IRS guidance now clarifies an "adverse financial consequence" may also occur because of any of the following as a result of COVID-19:

- The individual experiences a reduction in pay, rescission of a job offer, or a delayed start date;
- The individual's spouse or someone who shares the individual's principal residence is quarantined, furloughed, laid off, has reduction in hours or pay, is unable to work due to lack of childcare, or has a rescission of a job offer or delayed start date; or
- A business owned/operated by the individual's spouse or member of their household must close or reduce their hours.

Additionally, the IRS guidance clarifies amounts that are not eligible rollover distributions cannot be treated as coronavirus-related distributions, including: excess deferral refunds, deemed distributions resulting from loan defaults, and permissible withdrawals from an eligible automatic contribution arrangement.

Plan Loans

The CARES Act permits qualified plans to suspend loan repayments due through the end of 2020. The IRS Notice implements a safe harbor for those qualified plans that permit the suspension of a participant's loan for any period beginning not earlier than March 27, 2020 and ending not later than December 31, 2020. Under the safe harbor, the term of the loan may be extended for one year from the date the loan was originally due to be repaid in full. The IRS guidance provides an example wherein a loan set to be fully repaid on March 31, 2025 is extended to March 31,

2026 as a result of the participant's loan repayments being suspended for part of the 2020 plan year (from July 1, 2020 to December 31, 2020) falling within the safe harbor period.

Option to Cancel Deferrals to Nonqualified Deferred Compensation Plans

Employers sponsoring a nonqualified deferred compensation plan may permit a service provider to cancel their deferral election if such cancellation is made due to an unforeseen emergency or hardship distribution. Specifically, if a participant receives a coronavirus-related distribution from an eligible retirement plan, that distribution is considered a hardship distribution permitting the cancellation of a deferral election.

Other Provisions

The IRS Notice also provides additional information with respect to reporting of coronavirus-related distributions, a sample self-certification statement, and information relevant to taxpayers reporting such distributions.

Read more legal updates, blog posts, and speaking engagements related to this area on [Robinson+Cole's Coronavirus Response Team](#) page and feel free to contact any member of our team with questions.

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