

CORONAVIRUS AND CARES ACT: IMPACT ON RETIREMENT PLANS

MOST COMMONLY ASKED QUESTIONS

We have recently received an increase of plan-related inquiries from our clients and financial advisor partners regarding the impact on their plan of Coronavirus and the CARES Act that was recently signed into law on March 27, 2020.

Here are the top things they want to know:

Detailed information on the following content is also available on our [CARES Act Resource Page](#) and [COVID-19 FAQ Page](#).

What retirement plan distributions or loan provisions are available to my employees who are financially affected by the pandemic?

In addition to the normal distributions available in the existing plan document, special coronavirus-related distribution provisions can be made available to Qualified Individuals:

- **Coronavirus-Related Distribution (CRD)** – Participants have the option to withdraw up to \$100,000.
- **Coronavirus-Related Loan Provisions (CRL)** – Participants may borrow up to the lesser of \$100,000 or 100% of the vested account balance until September 22, 2020. Loan payments due between March 27, 2020 and December 31, 2020 may be deferred for up to one year.

Does our Plan need to be amended to allow for Coronavirus-Related Distributions and Loans?

Coronavirus-Related Distributions and Loans are optional provisions that will require a plan document amendment. The plan does not have to be amended for the provisions until the last day of the first plan year beginning on or after January 1, 2022 (or January 1, 2024 for governmental plans). It is not necessary for the plan to have an existing hardship or unforeseeable emergency provision to take advantage of CRDs. Your plan must currently allow for loans, or be amended to allow loans by the end of the current plan year, in order to take advantage of the Coronavirus-Related Loan provisions.

Are Required Minimum Distributions (RMDs) temporarily waived?

RMD payments due in 2020 from qualified Defined Contribution plans are waived. The CARES Act does not provide any relief for RMDs from Defined Benefit nor Cash Balance Plans.

Who is a Qualified Individual for purposes of the Coronavirus-Related Distributions and Loans?

- Participant, spouse or dependent diagnosed with SARS-CoV-2 or with coronavirus disease 2019 (COVID-19) by a test approved by the Centers for Disease Control and Prevention (including a test authorized under the Federal Food, Drug and Cosmetic Act)
- Participant, participant's spouse or member of participant's household experienced adverse financial consequences as a result of the following:
 - Being quarantined, furloughed, laid off, or having work hours reduced
 - Being unable to work due to lack of childcare
 - Closing or reducing hours of a business that they own or operate
 - Reduction in pay or self-employment income
 - Having a job offer rescinded or start date for a job delayed
- Individuals meeting other factors as determined by the Secretary of the Treasury

Can a standard 401(k) plan be amended to remove employer contributions mid-year?

Most Employer Contributions are not mandatory. If you have a Cash Balance Plan paired with a Defined Contribution Plan, have a Money Purchase Pension Plan – or, if your plan is considered top heavy – you may be required to make an Employer Contribution into your plan for 2020.

Can a 401(k) Safe Harbor plan be amended to suspend or eliminate the Safe Harbor contribution?

TRA can amend your plan at your request to remove the provision for Safe-Harbor Contributions mid-year. Be aware, under current law stopping the Safe Harbor Contributions requires 30 day notice to participants, and will subject the plan to additional testing requirements. You can potentially delay ongoing Safe Harbor Match contributions by amending the timing of those deposits to be plan-year based.

Can a plan sponsor change the plan's matching contribution funding frequency from per-payroll to year-end?

If the matching contribution is discretionary, you can do that at any time. We suggest notifying your participants, so they are aware. If the matching contribution is required (ex: Safe Harbor), the plan must be amended and you should provide a 30 day notice to participants.

When does a partial plan termination happen and what are the ramifications?

A partial plan termination may be triggered if more than 20% of total plan participants have their employment severed in a particular year. Employees who are laid off, or furloughed, could be considered for purposes of determining a partial plan termination.

Current law requires all affected participants to be fully vested in their account balances as of the date of a full or partial plan termination.

Are terminated participants eligible for a Coronavirus-Related Distributions (CRDs)?

Yes. As long as the plan allows for CRDs and the participant is a Qualified Individual, then the individual is entitled to treat the distribution as a CRD—there is no 10% additional tax; the amount can be included in income over three years; and there is a three-year repayment right.

Are wages being paid under the Families First Coronavirus Response Act (FFCRA) considered eligible 401(k) plan wages?

The CARES Act does not change the definition of eligible compensation. The terms of the plan document should be followed. If taxable to the participant, unless it falls under another type of compensation exclusion, it is eligible compensation and should be included in the calculation of contributions. It generally will not be considered excluded under fringe benefits unless it is paid by an outside company via a welfare benefit plan sponsored by the employer.

TRA is here to help! Our CRMs are available to support you.

Please contact us at 888.872.2364