

Review of recent IRS notices regarding the CARES Act

The IRS recently issued Notice 2020-50 and Notice 2020-51 clarifying and expanding some aspects of the Coronavirus, Aid, Relief and Economic Security (CARES) Act. As always, this update is quick and dirty and meant to give clients and advisors a general overview. If you want to take a deeper dive, some of the best explanations can be found on the Ferenczy Benefits Law Center website, in the [FlashPoint](#) articles. Please contact us directly for questions specific to your circumstances.

**EXPANSION OF DEFINITION OF QUALIFIED INDIVIDUAL FOR DISTRIBUTIONS AND LOANS**

As reported earlier, the CARES Act says an Individual is qualified if:

1. The participant has been diagnosed with the virus (as confirmed by a CDC-approved test);
2. The participant's spouse or dependent has been diagnosed with the virus; or
3. The participant has suffered financially from the pandemic because:
  - a. The participant was laid off, furloughed, quarantined, or had hours reduced;
  - b. The participant cannot work due to the unavailability of child care because of the pandemic; or
  - c. The participant's own business has had to close or reduce hours.

Sponsors may rely on the participant's certification to the cause.

**IRS Notice 2020-51 expands that definition to say that a qualified individual is an individual who experiences adverse financial consequences as a result of:**

- the individual having a reduction in pay (or self-employment income) due to COVID-19 or having a job offer rescinded or start date for a job delayed due to COVID-19;
- the individual's spouse or a member of the individual's household (as defined below) being quarantined, being furloughed or laid off, or having work hours reduced due to COVID-19, being unable to work due to lack of childcare due to COVID-19, having a reduction in pay (or self-employment income) due to COVID-19, or having a job offer rescinded or start date for a job delayed due to COVID-19; or
- closing or reducing hours of a business owned or operated by the individual's spouse or a member of the individual's household due to COVID-19.

**For purposes of applying these additional factors, a member of the individual's household is someone who shares the individual's principal residence.**

**SAFE HARBOR FOR REPAYMENT OF CORONAVIRUS-RELATED LOANS (CRLs)**

As reported earlier, for loans made in the 180 days after March 27, the maximum is increased from the lesser of 50% of the account balance or \$50,000, to 100% of the account balance or \$100,000. Any payments (including on pre-existing loans) due between March 27, 2020 and December 31, 2020 may be deferred for one year, and subsequent payments may be delayed similarly, with interest accruing.

**IRS Notice 2020-51 provides a safe harbor for repaying CRLs: payments may be suspended through December 31, and reamortized after that by adding up to a year to the payment schedule. This can have the effect of reducing loan payments slightly because the delay period is less than a year but the repayment period can be extended by a year. Note that the Act itself allows for a suspension of one year, but the safe harbor effectively cuts it off at December 31, 2020. It is in fact possible to use the one-year extension in the Act but it makes things terribly complicated and it is best to follow the safe harbor.**

#### **MORE INFO ON WAIVER OF REQUIRED MINIMUM DISTRIBUTIONS**

As reported earlier, RMDs for defined contribution plans such as 401(k)s are waived for the 2020 plan year. This includes initial RMDs “for” 2019 that were due April 1, 2020. This applies to IRAs as well. It does NOT apply to defined benefit (including cash balance) plans.

**Notice 2020-51 gives the following relief:**

- **the following distributions may be rolled over:**
  - **most distributions to a plan participant paid in 2020 (or paid in 2021 for the 2020 calendar year in the case of an employee who has a required beginning date of April 1, 2021) that would have been RMDs in 2020 (or for 2020), but for the CARES Act.**
  - **for a plan participant with a required beginning date of April 1, 2021, distributions that are paid in 2021 that would have been an RMD for 2021 but for the CARES Act.**