

How the Coronavirus Relief Bill Affects DC Plans

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The coronavirus relief bill, known as the CARES Act, seeks to address the recent economic tremors stemming from the coronavirus pandemic. Certain provisions look to liberalize loan and distribution availability for certain DC plan participants (i.e., “qualified individuals”).

Background

The CARES Act was signed into law on March 27. Drafting this legislation was expedited, which means there is a limited congressional record to clarify some provisions. It is noteworthy that the legislation is intended to be employee-friendly. Where there are questions about implementation and administration, DC plan sponsors may rely on good-faith interpretations until official guidance is available.

What changes have been made to loan requirements?

- Loan provisions in defined contribution (DC) plans have been liberalized for qualified individuals.
- The maximum amount for these loans has been raised to the lesser of \$100,000, or 100% of the vested balance, compared to loans to participants not considered qualified individuals (i.e., the lesser of \$50,000 or 50% of the vested balance). This provision applies to loans made during the 180-day period beginning on the date of the legislation’s enactment. This provision may be difficult for recordkeepers to administer, as their systems are designed to reject loans above the designated maximums in place currently.
- For outstanding loans and new loans to qualified individuals, loan repayments that would be due from the enactment date until Dec. 31, 2020, will be delayed for one year. Generally, the maximum loan term is five years. Under the CARES Act, these loans will be extended for one year. The remaining payments must be adjusted to reflect the delay in repayment, plus applicable interest resulting in a reamortization over the extended period.
- Missed loan repayments by participants who are not considered qualified individuals will continue to trigger a default and deemed distribution.
- These extension rules appear to be mandatory. It is not clear whether employees are allowed to opt out of having their loan due dates extended.

What changes have been made to distribution availability?

- Minimum required distributions under DC plans are waived for calendar year 2020, including the initial distribution payment related to 2019 that would have been

required by April 2020.

- Employees can take “coronavirus-related distributions,” not to exceed \$100,000 in a taxable year. Typically, employees are not permitted to take withdrawals of deferrals prior to termination or attaining age 59½. This limitation has been waived for coronavirus-related distributions.
- The 10% additional tax on early distributions and mandatory 20% withholding would not apply to coronavirus-related distributions.
- Unless the taxpayer elects otherwise, any amount included in gross income due to a coronavirus-related distribution will be included ratably over the three-year period beginning with that taxable year.
- A qualified individual may take a coronavirus-related distribution to repay it to an eligible retirement plan within three years of taking the distribution. Such repayment would be treated as a rollover contribution to the eligible retirement plan.

Who does this apply to?

According to the legislation, a qualified individual is any participant who has experienced adverse financial consequences resulting from a reduction in work hours; been laid off, quarantined, or furloughed; or is unable to work due to lack of childcare on account of the disease; and a participant, spouse, or dependent who has been diagnosed with the virus. Recordkeepers will need to be able to identify and track participants who fall into this category.

What is a “coronavirus-related distribution”?

A coronavirus-related distribution is any distribution from a DC plan between Jan. 1, 2020, and Dec. 31, 2020, to a qualified individual. The plan administrator may rely on an employee’s certification that the employee satisfies the conditions of a coronavirus-related distribution. It appears that plans would be permitted, but not required, to offer these distributions.

When are amendments required?

Historically, plans would need to be amended in the year an optional provision becomes effective. For the CARES Act, DC plans would need to be amended to reflect these new rules by the last day of the plan year beginning on or after Jan. 1, 2022 (i.e., Dec. 31, 2022, for plans that use calendar years). Governmental plans would have an additional two years to adopt the amendment.

Bottom Line: The extension of loan due dates could be more problematic to administer, as plan sponsors and recordkeepers would need to identify those participants who would be considered a qualified individual. They would also need to identify loans for these participants due in 2020, and reamortize those loans, communicate with employees, and update loan procedures. Adjusting the loan maximum will require manual intervention as these limits are hard coded into loan modeling tools and recordkeeping systems.

Waiving the minimum required distributions for 2020 may be the simplest provision to implement, as a similar waiver was granted in 2009.

Since it appears that plan sponsors may voluntarily decide to adopt the coronavirus-related

distribution provisions of the legislation, they will need to decide, along with their plan service providers, whether their plans want to administer the new distributions.

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