

MEMO# 32440

May 5, 2020

IRS Posts FAQs on CARES Act Retirement Plan Distributions and Loans

[32440]

May 5, 2020 TO: ICI Members

Pension Committee

Pension Operations Advisory Committee SUBJECTS: Pension RE: IRS Posts FAQs on CARES Act Retirement Plan Distributions and Loans

The IRS posted new website guidance, in the form of FAQs,[\[1\]](#) regarding the coronavirus-related relief for retirement plans and IRAs under the Coronavirus Aid, Relief, and Economic Security Act (the CARES Act).[\[2\]](#) The FAQs focus on the special rules for coronavirus-related distributions and loans under section 2202 of the CARES Act. Section 2202 generally permits certain qualified individuals affected by the COVID-19 emergency to take penalty-free withdrawals from defined contribution plans and IRAs (up to \$100,000), allows plans to temporarily increase limits on plan loans for qualified individuals, and delays the due date for certain plan loan repayments. Notably, the FAQs indicate that additional guidance on these provisions is in development.[\[3\]](#)

In that regard, Q&A 2 states that the Treasury Department and IRS are formulating guidance on section 2202 of the CARES Act and anticipate releasing that guidance in the near future. It explains that the guidance on the CARES Act will apply the principles of Notice 2005-92 (relating to similar distribution and loan relief under the Katrina Emergency Tax Relief Act of 2005 (KETRA))[\[4\]](#) to the extent the provisions of section 2202 of the CARES Act are substantially similar to the provisions of KETRA that are addressed in that notice. Many of the other answers refer to specific sections of Notice 2005-92 as applicable.

Selected FAQs are summarized below:

Q&A 3 addresses eligibility for coronavirus-related distributions, by reiterating the criteria from section 2202 and noting that the Act specifically authorizes the Treasury Department and IRS to issue guidance expanding the list of factors taken into account to determine whether an individual is a qualified individual as a result of experiencing “adverse financial consequences.” It states that the Treasury Department and IRS have received and are reviewing comments from the public requesting that the list of factors be expanded.

Q&A 8, relating to the delay of plan loan repayments, states that if a loan is outstanding on or after March 27, 2020, and any repayment on the loan is due from March 27, 2020, to December 31, 2020, that due date may be delayed under the plan for up to one year. It

further states that any payments after the suspension period will be adjusted to reflect the delay and any interest accruing during the delay. The answer specifically refers to section 5.B of Notice 2005-92.

Q&A 9 confirms that it is optional for employers to adopt the distribution and loan rules of section 2202. In other words, an employer is permitted to choose whether, and to what extent, to amend its plan to provide for coronavirus-related distributions and/or loans that satisfy the provisions of section 2202.

Q&A 11 confirms that the administrator of an eligible retirement plan may rely on an individual's certification that the individual satisfies the conditions to be a qualified individual in determining whether a distribution is a coronavirus-related distribution, *unless the administrator has actual knowledge to the contrary* (emphasis added).

Q&A 13 and 14 address reporting of coronavirus-related distributions, explaining that individuals would use Form 8915-E (which is expected to be available before the end of 2020) to report any repayment of a coronavirus-related distribution and to determine the amount of any coronavirus-related distribution includible in income for a year. Plans and IRA providers should report the payment of a coronavirus-related distribution to a qualified individual on Form 1099-R, and this reporting is required even if the qualified individual repays the coronavirus-related distribution in the same year. Q&A 14 states that the IRS expects to provide more information on how to report these distributions later this year and refers generally to section 3 of Notice 2005-92.

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endnotes

[1] The FAQ guidance is available at <https://www.irs.gov/newsroom/coronavirus-related-relief-for-retirement-plans-and-iras-questions-and-answers>.

[2] See ICI Memorandum No. 32328, dated March 27, 2020, *available at* https://www.ici.org/my_ici/memorandum/memo32328.

[3] ICI recently shared a list of questions on the CARES Act and other COVID-19 relief with the Treasury Department. See ICI Memorandum No. 32430, dated May 1, 2020, *available at* https://www.ici.org/my_ici/memorandum/memo32430.

[4] Notice 2005-92 is available at <https://www.irs.gov/pub/irs-drop/n-05-92.pdf>.