

MEMO# 32328

March 27, 2020

Congress Enacts Coronavirus Aid Package Including Retirement Plan Relief

[32328]

March 27, 2020 TO: ICI Members

Pension Committee

Pension Operations Advisory Committee SUBJECTS: Pension

Tax RE: Congress Enacts Coronavirus Aid Package Including Retirement Plan Relief

The US House of Representatives today approved by voice vote the Coronavirus Aid, Relief, and Economic Security Act (the CARES Act), which the US Senate had earlier approved March 25 on an overwhelming 96-0 vote.[\[1\]](#) The President is expected to sign the final legislation in short order.

The CARES Act consists of several different Divisions and Titles, which are aimed at providing emergency assistance and health care response for individuals, families and businesses affected by the coronavirus disease 2019 (COVID-19). The CARES Act makes several welcome changes to rules impacting retirement plans and IRAs, some of which we requested in a joint trade letter.[\[2\]](#)

The relief the CARES Act provides regarding IRAs and defined contribution plans is described in detail below. In addition to the defined contribution plan relief, the CARES Act also provides limited funding relief for single-employer defined benefit plans.[\[3\]](#) The CARES Act also includes a provision that gives DOL broad authority to postpone certain deadlines for all ERISA plans.[\[4\]](#)

RMD Waiver [Section 2203, page 167].

The CARES Act includes a provision waiving required minimum distributions (RMDs) for 2020. ICI prioritized this relief early in the legislative process and provided draft legislative language to staff of the Senate Finance Committee and House Ways and Means Committee. The relief applies for IRAs and defined contribution plans including 401(k) plans, 403(b) plans, and governmental 457(b) plans. In addition to RMDs for the calendar year 2020, the waiver also applies to 2019 RMDs for those who are required to take their first RMD by April 1, 2020, if the distribution was not taken before January 1, 2020. The waiver does not affect the determination of the required beginning date with respect to any individual.

For purposes of applying the RMD rules to beneficiaries, the year 2020 should be disregarded for purposes of applying the 5-year distribution rule.[\[5\]](#)

The CARES Act also includes a special rollover rule—similar to the one enacted in 2008 during the financial crisis—allowing amounts otherwise subject to the RMD rules in 2020 to be rolled over. If a distribution is an eligible rollover distribution in 2020 because it is no longer an RMD under this legislation, the distribution is not required to be treated as an eligible rollover distribution for purposes of the direct rollover requirement, the notice and written explanation of the direct rollover requirement, and the mandatory 20 percent income tax withholding for eligible rollover distributions. For other purposes, regular rollover rules apply to the distributions that would have been RMDs but for this legislation.

Distributions from Retirement Plans and IRAs [Section 2202(a), page 157].

The CARES Act waives the 10 percent additional tax for early distributions associated with any “coronavirus-related distribution” taken in 2020 for amounts not to exceed \$100,000, subject to the following rules:

- Coronavirus-related distributions can be taken from IRAs and retirement plans including 401(k) plans, 403(b) plans, and governmental 457(b) plans.
- The provision applies to individuals who have been diagnosed with “the virus SARS-CoV-2” or “coronavirus disease 2019 (COVID-19),” individuals whose spouse or dependent is diagnosed with such virus or disease, or individuals who experience adverse financial consequences as a result of:
 - being quarantined, being furloughed or laid off or having reduced working hours due to the virus/disease,
 - being unable to work due to lack of child care due to the virus/disease,
 - closing or reducing hours of a business owned or operated by the individual due to the virus/disease,
 - or other factors as determined by Treasury.

The CARES Act allows a plan to rely on a certification provided by the participant that he or she meets the conditions for a coronavirus-related distribution.

- Amounts distributed may be repaid in multiple payments at any time over the three-year period commencing on the day after the date the distribution was received. These amounts can be repaid to a qualified plan or an IRA so long as the account is one to which a rollover contribution could be made under the Internal Revenue Code (“Code”).
- To the extent that the amounts are not repaid, the income with respect to any coronavirus-related distribution can be included ratably over the three taxable years beginning with the taxable year in which the distribution was received.
- Coronavirus-related distributions are deemed to meet applicable limitations on in-service withdrawals under Code sections 401(k) and 403(b). Such distributions are not required to be treated as eligible rollover distributions for purposes of the direct rollover requirement, the notice and written explanation of the direct rollover requirement, and the mandatory 20 percent income tax withholding for eligible rollover distributions.

Plan Loans [Section 2202(b), page 163].

For plan loans made to qualified individuals^[6] during the 180-day period beginning on the date of enactment, the bill increases the dollar amount available for loans from qualified plans from \$50,000 to \$100,000 and increases the percentage test limit for loans from half the present value of the participant's vested benefit to the entire present value of his or her vested benefit under the plan. In addition, for loans to qualified individuals outstanding as of, or after, the date of enactment, if a loan repayment is due during the period beginning on the date of enactment and ending on December 31, 2020, the repayment may be delayed for one year from the original due date.

Plan Amendments [Section 2203(c)(2), page 169 (RMD provisions) and Section 2202(c)(2), page 166 (plan distributions and loans)].

Plan amendments needed to reflect the RMD waiver and the special distribution and loan rules under the CARES Act are due by the last day of the first plan year beginning on or after January 1, 2022 (or January 1, 2024 for governmental plans).^[7]

IRA Contributions.

Although an earlier version of the CARES Act would have broadly extended the tax return filing date for individuals until July 15, which would also have moved the due date for 2019 IRA contributions to July 15, 2020, the provision was removed in the final CARES Act because the IRS issued Notice 2020-18.^[8] Nonetheless, the IRS confirmed in FAQs issued March 24 that the contribution date for IRAs is also extended to July 15, 2020.^[9] To date, the IRS has not provided guidance to delay the due date for filing Form 5498.

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endnotes

^[1] A copy of the CARES Act is available [here](#).

^[2] The letter, signed by 25 trade associations, was sent to all members of the US Congress on March 20, 2020. A copy of the letter is *available at* https://www.ici.org/pdf/20_ltr_jointtradecovid.pdf.

^[3] See Section 3608, page 356.

^[4] See Section 3607, page 356. The provision extends DOL's authority under Section 518 of ERISA to postpone deadlines by reason of a public health emergency declared by the Secretary of Health and Human Services.

^[5] An earlier version of the CARES Act also provided that the year 2020 should be disregarded for purposes of applying the new 10-year distribution rule added by the SECURE Act. However, this language was removed in the final legislation. For a description of the SECURE Act provisions, see ICI Memorandum No. 32118, dated December 20, 2019, *available at* https://www.ici.org/my_ici/memorandum/memo32118.

^[6] Qualified individuals are the same as those eligible for a coronavirus-related distribution

under the CARES Act.

[7] The legislation gives Treasury the authority to designate a later deadline for amending plans for the distribution and loan rules.

[8] IRS Notice 2020-18 is *available at* <https://www.irs.gov/pub/irs-drop/n-20-18.pdf>. The Notice automatically postpones to July 15, 2020 the April 15 due date for filing Federal income tax returns and making Federal income tax payments.

[9] See Q&A 17 of the IRS's Filing and Payment Deadlines Questions and Answers, *available at* <https://www.irs.gov/newsroom/filing-and-payment-deadlines-questions-and-answers>. Also see ICI Memorandum No. 32315, dated March 24, 2020, *available at* https://www.ici.org/my_ici/memorandum/memo32315.

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