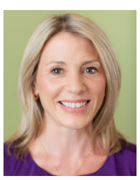
IRS Issues CARES Act Guidance for Retirement Plans



by Elizabeth J. Masson

Key Points

- IRS guidance expands the definition of "qualified individual" for receiving a tax-favored coronavirus-related distribution ("CRD") from a retirement plan and other plan changes under the CARES Act.
- The guidance confirms that plan changes under the CARES Act are optional, including the loan repayment delay, and provides a safe harbor method for implementing the loan repayment delay.

In Notice 2020-50, the IRS issued guidance for retirement plan sponsors who adopt optional plan changes under the Coronavirus Aid, Relief, and Economic Security Act (the "CARES Act").

Expanded Categories of Qualified Individuals

The CARES Act permits certain retirement plan changes for "qualified individuals" who are affected by COVID-19. The guidance clarifies that sponsors of eligible retirement plans may but are not required to:

- Treat distributions from the plan made in 2020 as coronavirus-related distributions ("CRDs"), up to $100,000.
- Increase the maximum plan loan amount to $100,000 or 100% of the participant's account balance, through September 23, 2020.
- Delay loan repayments otherwise due between March 27, 2020 and December 31, 2020 for one year, with the term of the loan also extended for one year.

Under the CARES Act, a "qualified individual" is someone who is diagnosed, or whose spouse or dependent is diagnosed with COVID-19, or who experiences adverse financial consequences as a result of COVID-19 due to being quarantined, furloughed, laid off, unable to work due to a lack of child care, having their work hours reduced, or closing or reducing the hours of their business. The guidance expands this definition to include someone who experiences adverse financial consequences as a result of COVID-19 due to:

- The individual having a reduction in pay or self-employment income, or having a job offer rescinded or start date for a job delayed;
- The individual's spouse or member of their household being quarantined, furloughed, laid off, unable to work due to a lack of child care, having their work hours or pay reduced, or having a job offer rescinded or start date for a job delayed; or
- The closing or reducing hours of a business owned or operated by the individual's spouse or a member of their household.

The guidance confirms that plan sponsors may elect whether to treat distributions as CRDs, but that qualified individuals may treat a distribution as a CRD regardless of whether the plan is changed to provide for CRDs. Generally, plan sponsors may rely on an individual's self-certification that they are a qualified individual, and the guidance includes sample certification language.

Safe Harbor Method for Implementing Optional Loan Repayment Delay

The guidance explains that plan sponsors are not required to adopt the loan repayment delay under the CARES Act, and provides a safe harbor method for implementing it. The safe harbor requires that loan repayments resume after the "suspension period", which cannot extend beyond December 31, 2020. The outstanding loan balance is reamortized to include interest on the missed payments, and the original term of the loan is extended for one year. According to the guidance, there may be other reasonable, if more complex, methods for implementing the loan repayment delay.

Guidance on CRD Tax Reporting and Nonqualified Deferred Compensation Plans

The guidance also contains information about tax reporting and withholding for CRDs, repayment of CRDs, and treatment of CRDs as a hardship distribution for purposes of allowing individuals who receive a CRD to cancel deferral elections made under a nonqualified deferred compensation plan subject to section 409A.

If you have questions, please reach out to your contact in the Hanson Bridgett Employee Benefits Group.

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