

# 2020 CARES ACT

## Retirement Planning FAQ

On March 27, 2020, in response to the COVID-19 global pandemic, Congress passed the Coronavirus, Aid, Relief, and Economic Security (CARES) Act. This is historic and sweeping legislation created to help keep workers paid and employed, allow businesses to remain operational, make necessary health care system enhancements and stabilize the economy.

The Act contains a few key provisions designed to assist retirement plan participants and IRA account holders who are struggling financially during these unprecedented times. Here are some frequently asked questions regarding these key provisions. For more comprehensive information on other key CARES Act provisions, go [here](#).

### Retirement Planning

#### **Q: Does the CARES Act affect hardship distributions?**

Yes. For a qualified individual, the CARES Act waives the Code Section 72(t) additional 10% penalty tax on early (pre- age 59½) withdrawals up to \$100,000 from a retirement plan or IRA.

#### **Q: What determines if an individual qualifies for the penalty exemption?**

An individual qualifies for the exemption in the following circumstances:

- They are diagnosed with COVID-19
- Their spouse or dependent is diagnosed with COVID-19
- They are experiencing adverse financial consequences as a result of being quarantined, furloughed, laid off, having work hours reduced, being unable to work due to lack of child care due to COVID-19, closing or reducing hours of a business owned or operated by the individual due to COVID-19, or other factors as determined by the Treasury Secretary.

While there are no specific details in the CARES Act, several industry sources state that given the extensive list of potential individuals who may qualify for relief under the Act, it seems that the Congressional intent was to make relief available as broadly as possible. The IRS will likely operate in kind, and take a liberal view of who has been impacted by the coronavirus enough to qualify for a coronavirus-related distribution or loan request. Plan and account administrators can rely on an individual's self-certification that they meet the requirements of a coronavirus-related hardship distribution or loan request at the time they make the request.

#### **Q: Are hardship distributions still subject to income taxes?**

Yes. However, a coronavirus-related distribution under the Act can be included proportionally in the qualified individual's taxable income over a three-year period, unless the individual elects to have it taxed in the year of distribution.

In addition, the distribution will not be treated as an eligible rollover distribution, so the mandatory 20% withholding will not apply.

**Q. Can the hardship distribution be paid back at some point to avoid income taxes?**

Yes. The Act also allows a qualified individual who takes a coronavirus-related distribution to repay that amount tax-free back into the plan within three years of taking the distribution. Such repayment will be treated as a rollover contribution and not be subject to annual maximum contribution limits.

**Q. Does the CARES Act affect retirement plan loans?**

Yes. The CARES Act doubles the current retirement plan loan limits to the lesser of \$100,000 or 100% of a qualified individual's vested account balance in the plan. This increased loan amount is available for loans made during the 180-day period beginning on the date of enactment.

In addition, the Act extends the due date of any qualified individual's loan repayment that would otherwise be due during 2020 (but on or after the date of enactment) to one year after the otherwise applicable due date.

**Q. What determines if an individual qualifies for the increased plan loan limits?**

The qualification requirements for an increased loan limit distribution are the same as those for a hardship distribution penalty exemption.

**Q: How do the coronavirus-related distribution and loan provisions affect retirement plan amendments?** Retirement plans may choose (but are not required) to adopt these rules immediately, even if the plan does not currently allow for hardship distributions or loans. The plan amendment deadline for adopting these new rules would be no earlier than the last day of the first plan year beginning on or after Jan. 1, 2022, or later as prescribed by the Treasury Secretary.

**Q: Does the CARES Act affect Required Minimum Distributions (RMDs) that need to be taken in 2020?**

Yes. The CARES Act suspends RMDs during 2020. This applies to Traditional IRAs, SEP IRAs, and SIMPLE IRAs, as well as 401(k), 403(b) and Governmental 457(b) plans. Furthermore, the relief applies to both retirement account owners, themselves, as well as to beneficiaries taking stretch distributions.

The CARES Act not only eliminates RMDs for 2020, but any RMD that otherwise needed to be taken in 2020.

More specifically, individuals who turned 70 ½ in 2019, but did not take their first RMD in 2019 (and thus, would have normally been required to take such a distribution by April 1st, 2020, as well as a second RMD for 2020 by the end of 2020) do not have to take either their 2019 RMD or their 2020 RMD.

**Q: Does the Act cover inherited/beneficiary IRAs?**

Yes. The CARES Act waives 2020 RMD payments for beneficiaries taking stretch distributions.

**Q: Does the CARES Act provide any relief for those retirement plan or IRA participants that have already taken their RMD for 2020?**

In April, the IRS extended a number of deadlines for certain actions that are otherwise due to be performed on or after April 1, 2020 and before July 15, 2020, to July 15, 2020. This extension indirectly provides a way for individuals who already took an RMD to put it back into their IRA or plan and eliminate the tax bill. Here's how it works:

Normally, anyone who takes a distribution from their IRA or plan can roll those funds over within 60

days. This IRS extension to July 15, 2020 means that anyone who took an RMD between February 1, 2020 and May 15, 2020 can still put the money back into their IRA or plan.

Unfortunately, if you took an RMD in January, you do not appear to qualify for any relief (based on what is known as of late April 2020).

Please note that this relief does not include relief from the once-per-year IRA rollover rule. Only one IRA-to-IRA or Roth IRA-to-Roth IRA rollover per 365 days (not a calendar year) is permitted. If anyone has done one of these rollovers within the 365 days preceding the date they received their RMD, then they are disqualified from taking advantage of this 60-day extension. This rule only applies to IRA-to-IRA rollovers, and not to company retirement plans. For example, rollovers from company plans to IRAs or vice-versa are not subject to the once-per-year rule. Neither are Roth conversions.

One final thing to note: Under the CARES Act, 2020 RMDs were also waived for beneficiaries. However, non-spouse beneficiaries don't qualify for this 60-day extension because, under the law, a non-spouse beneficiary cannot do a 60-day rollover.

There is always a chance that the IRS may address providing additional relief on all of these RMD issues and rules at a later date.

#### **Q: What are LPL's plans for clients who have RMD Service set up to distribute later in 2020?**

Currently there are no plans to change the RMD process. LPL will let clients know that they can contact the LPL Service Center directly at (800) 558-7567 to either waive their RMD for 2020 or take it as currently scheduled.

#### **Q: Does the CARES Act allow for any extensions to 2020 retirement plan filing deadlines?**

The CARES Act expands the Department of Labor's authority to postpone certain deadlines under ERISA. In general, the legislation expands the circumstances to go beyond a terroristic or military action to also include a public health emergency declared by the Secretary of Health and Human Services under the Public Health Service Act.

The DOL and Treasury Department may choose to provide relief from various filing requirements, such as an automatic extension of the Form 5500 series for retirement plans, an extension to the deadline for correcting a failed ADP or ACP test and an extension of the period for distributing excess contributions and excess aggregate contributions under a plan, among others. As of March 27, 2020 the agencies have not yet granted specific extensions to any plan filing requirements.

#### **Q: Does the CARES Act provide any relief to single- employer DB Plan funding?**

Yes. The Act provides single-employer defined benefit plan funding relief by giving companies more time to meet their funding obligations by delaying the due date for any contribution otherwise due during 2020 until Jan. 1, 2021. At that time, contributions due earlier would be due with interest. The provision also provides that a plan's status for benefit restrictions as of Dec. 31, 2019 will apply throughout 2020, such that a plan sponsor may elect to treat the plan's adjusted funding target attainment percentage for the last plan year ending before Jan. 1, 2020, as the adjusted funding target attainment percentage for plan years which include calendar year 2020.

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