



Insights: Alerts

CARES Act | Provisions Applicable to Tax-Qualified Retirement Plans

March 26, 2020

Written by Lois Wagman Colbert, R. Sterling Perkinson,

Please note: The below information may require updating, including additional clarification, as the COVID-19 pandemic continues to develop. Please monitor our main [COVID-19 Task Force page](#) and/or your email for updates.

Emergency Withdrawals. Participants in defined contribution plans (profit sharing, 401(k), and 403(b) plans) could access their retirement savings now if plans are amended to allow coronavirus-related withdrawals. Effective upon enactment, “Qualified Individuals”—those who are diagnosed, or whose spouse or dependent is diagnosed, with the coronavirus or experience adverse financial consequences as a result of being quarantined, furloughed, laid off, having to work reduced hours, being unable to work due to a lack of childcare, or having their business closed or hours reduced—could take a distribution from their account of up to \$100,000 before December 31, 2020. The 10% early withdrawal penalty that might normally apply to participants under age 59 ½ would be waived, and the distribution could be included in income ratably over 3 years, rather than all in 2020. Amounts distributed could also be repaid to the account within three years to avoid inclusion in income.

Increased Loan Amounts. For a limited period, expiring September 22, 2020, Qualified Individuals (as defined above) in defined contribution plans (profit sharing, 401(k), and 403(b) plans) will have more flexibility to take plan loans for coronavirus-related relief in the six-month period following enactment. A plan could be amended to allow Qualified Individuals to take plan loans up to the lesser of \$100,000 or 100% of the vested account balance, reduced by prior loan balances, which is double the current limit of the lesser of \$50,000 or 50% of the vested account balance.

Loan Repayment Forbearance. Qualified Individuals (as defined above) in defined contribution plans (profit sharing, 401(k), and 403(b) plans) who have an outstanding plan loan may delay for 1 year any loan payment that is due between the date of enactment and December 31, 2020. Interest on the loan will continue to accrue, and the loan will be reamortized after the suspension period. The suspension period will be disregarded for purposes of applying the maximum 5 year loan period for general purpose loans.

Suspension of Required Minimum Distributions. A defined contribution plan (profit sharing, 401(k), and 403(b) plans), but not a defined benefit plan, could be amended to allow any participant who otherwise would be required to take a minimum required distribution in calendar year 2020 under Internal Revenue Code section 401(a)(9) to suspend that distribution for 2020. This provision provides relief to individuals who would otherwise

be required to withdraw funds from their retirement accounts while asset values are significantly reduced due to the stock market declines related to the coronavirus outbreak.

Postponement of ERISA deadlines. The Act would authorize the Secretary of Labor to postpone for up to 1 year deadlines otherwise applicable to employee benefit plans subject to the requirements of the Employee Retirement Income Security Act (ERISA) for declared public health emergencies.

Related People



Lois Wagman Colbert

t 202.508.5809

lcolbert@ktslaw.com



R. Sterling Perkinson

t 919.788.1664

sperkinson@ktslaw.com