

# Insights

## The CARES Act: Changes Posed to Employer-Sponsored Retirement Plans

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The Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") provides financial relief to employers and employees facing economic hardships as a result of the pandemic. Below are provisions applicable to qualified retirement plans.

### **Plan Amendments**

Even if you implement any of the changes below in the operation of your plan, the plan document, itself, will not have to be amended until the end of 2023 (assuming the plan year is a calendar year). Governmental plans have until the end of 2024.

### **Coronavirus-Related Retirement Plan Distributions**

Retirement plans can be amended to provide for distributions of up to \$100,000 in 2020 to address coronavirus-related hardships for participants who:

- Are diagnosed with SARS-CoV-2 or COVID-19 (using a CDC-approved test)
- Has a spouse or dependent that is also diagnosed with such virus; or
- Experience adverse financial consequences as a result of quarantine, furlough, layoff, reduction in work hours, being unable to work due to a lack of child care, closing or reducing hours of a business due to such virus or disease.

The CARES Act also provides the following guidance for these distributions:

- Companies may rely on participant certification of eligibility;
- The 10% excise tax applicable to early distributions is waived;
- The distribution is included in a participant's income ratably over a three-year period (unless the participant elects complete taxation for the year of receipt);
- Participants may repay a distribution to the plan over a three-year period; and
- The \$100,000 limit applies, in the aggregate, to all plans maintained by a company and members of any controlled group that includes the company.

### **Coronavirus-Related Plan Loans**

The provisions below apply to an individual who meets the requirements discussed above during the 180-day period beginning on March 27, 2020.

- The maximum loan a participant may take is the lesser of \$100,000 (increased from \$50,000) or the value of the individual's vested account balance under the plan (the 50% limitation has been removed).



- Due dates for repayment of participant loans falling between March 27 and December 31, 2020 are delayed for one year, and subsequent due dates are adjusted to reflect such delay.

#### **Temporary Waiver of Required Minimum Distributions**

- Required minimum distributions (RMDs) do not apply for the 2020 calendar year for (1) participants with required beginning dates in 2020; and (2) participants who turned age 70  $\frac{1}{2}$  in 2019, but the RMD was not made prior to January 1, 2020.
- The 5-year and 10-year distribution periods for beneficiaries (see our Benefits Alert on the modified rules **here**) are determined without regard to the 2020 calendar year.
- Any distributions made in 2020 that would have otherwise been RMDs had the minimum distribution requirements applied during 2020, may not be treated as eligible rollover distributions.

#### **Coronavirus Resource Center**

In addition, please look to Krieg DeVault's Coronavirus Resource Center for other pertinent articles and links addressing a number of legal and other issues caused by COVID-19, including employee pay and FMLA leave.

We are with you all through this pandemic and are standing by to help with any challenges and questions you may have. If you have any further questions, comments or concerns, please feel free to contact **Alexander L. Mounts**, **Bryan J. Gross**, **Janice L. Hamilton** or a member of our **Employee Benefits team**.