

The CARES Act Update



Notice 2020-50

On June 19, 2020, the Internal Revenue Service (IRS) issued Notice 2020-50, providing greater clarity on distributions and loans and their tax treatment under the Coronavirus Aid, Relief and Economic Security (CARES) Act.

There are two notable changes involved, related to Coronavirus-Related Distributions (CRDs) and Coronavirus-Related Loans (CRLs). The first is an expansion of what a “qualified individual” – those who qualify to receive those funds – is. Previously limited to an individual who has been diagnosed with COVID-19, or has experienced adverse financial consequences as a result of the virus, 2020-50 has now expanded the definition to include a spouse, dependent or other member of the individual’s household who meets the above conditions.

This much-needed expansion of the term “qualified individual” solves questions over whether one is allowed to receive a CRD or CRL if their spouse, not themselves, met the criteria.

A qualified individual is now someone who:

1. Is diagnosed, or whose spouse or dependent is diagnosed, with COVID-19 by a test approved by the Centers for Disease Control and Prevention (including a test authorized under the Federal Food, Drug, and Cosmetic Act); or
2. Experiences adverse financial consequences as a result of the individual, the individual’s spouse, or a member of the individual’s household (that is, someone who shares the individual’s principal residence):

- being quarantined, furloughed or laid off, or having work hours reduced due to COVID-19;
- being unable to work due to lack of childcare due to COVID-19;
- closing or reducing hours of a business that they own or operate due to COVID-19;
- having pay or self-employment income reduced due to COVID-19; or
- having a job offer rescinded or start date for a job delayed due to COVID-19.

The second major change, related to the above, involves self-certification – allowing the individual to certify that he or she is a qualified individual who can receive a CRD or CRL. Where before there was uncertainty as to how much, if any, work a plan fiduciary needed to do to confirm – or contradict – that self-certification, the IRS now essentially says that such work would be particularly difficult to conduct with a degree of absolute certainty.

2020-50 also clarifies that CRDs are not subject to the standard rules for eligible rollover distributions; instead, they are subject only to voluntary withholding. Flexibility is also afforded for reporting CRDs on Form 1099.

Furthermore, the ruling says that:

- a participant may claim a CRD that may be contrary to their plan and their tax reporting;
- CRDs of up to \$100,000 that are eligible for advantageous tax treatment may be repaid to the plan or an IRA within three years;
- loan amounts have been increased to \$100,000 and the limitation of aggregate loans have been increased to 100% of employee's vested accrued benefit for loans made on or after March 27, 2020 and before September 23, 2020; and
- loan repayments otherwise due from March 27, 2020 through Dec. 31, 2020 may be suspended for up to one year.

The ruling also provides a safe harbor by stating that, for all plans, loan repayments must begin by January 2021. This can be achieved by allowing substantially equal payments over the remainder of the original loan term plus up to one year.