

Covid-19 Isn't The Only Thing Challenging Employers In 2020 – Part 1



Nothing that is presented during this educational program is intended as tax advice, and this program does not address all federal, state or local regulatory or other issues raised by the subject matter it addresses.

Your Presenters:



Crystal Skotedis, CPA, CFE
Principal | Boyer & Ritter LLC
cskotedis@cpabr.com
717.761-7210 x 1253



Kimbarley Williams, CPA
Principal | Boyer & Ritter LLC
kwilliams@cpabr.com
717.761.7210 x1244

During the Webinar

- All Attendees' lines are muted
- Question board is available and monitored – look for Q&A icon on webcast tool bar. Please do not use the chat feature to ask questions
- Slides and a recording of the webinar will be available on the Boyer & Ritter LLC website
- At the end of the webinar, there will be a brief Q&A period, any questions not answered will be accumulated and answers provided on the website



AGENDA:

Bipartisan Budget Act of 2018

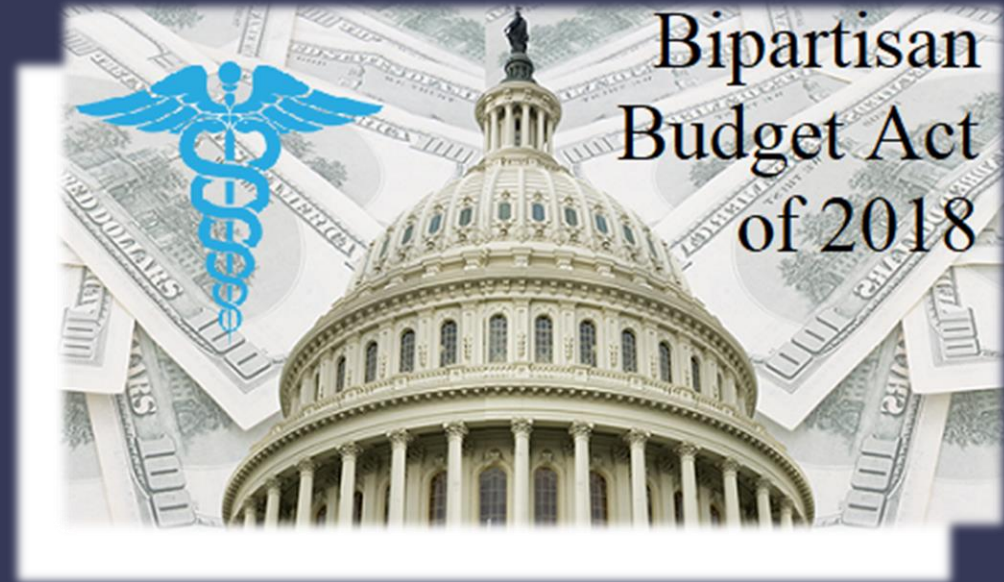
Cares Act

DOL E-Disclosure Rules

Revenue Procedure 2020-46

Bipartisan Budget Act of 2018

The Act contains several provisions that impact qualified retirement plans. The most significant of which enhances provisions for hardship withdrawals. The IRS finalized the hardship distribution rules in September 2019.



Hardship Withdrawals



The Budget Act relaxed the rules related to hardship withdrawals applicable to qualified defined contribution plans beginning with plan years after December 31, 2018.

Hardship distributions permit active participants to receive a distribution from their accounts if they have an immediate and heavy financial need such as:

- medical expenses
- foreclosure or eviction
- funeral expenses
- secondary education expenses etc.



5 Key Changes Under the Final Regs:

1. Elimination of the six-month salary deferral suspension (**optional in 2019, mandatory by January 1, 2020**)
2. Permits plans to eliminate the requirement that a participant exhaust the opportunity to take a loan under the plan before receiving a hardship distribution (**optional**)
3. Expands the types of contribution sources available for hardship distributions to include: qualified nonelective contributions, qualified matching contributions and earnings on these contribution sources along with the elective deferral contributions (**optional**)

5 Key Changes Under the Final Regs:

4. Added a new type of safe harbor hardship expense for losses relating to federally declared disasters (**optional**)
 - Relates to expenses and losses incurred by an employee due to a disaster declared by Federal Emergency Management Agency (FEMA)
 - The employee's principal residence or place of employment, must be located in the area designated by FEMA
 - This provisions will generally replace future disaster relief announcements from the IRS for individual disasters



5 Key Changes Under the Final Regs:

5. Administrative changes: for hardship distributions made on or after January 1, 2020, the historical facts and circumstances test is eliminated in determining whether a distribution is necessary to satisfy an immediate and heavy financial need and replaced with:

- A hardship distribution can not exceed the amount of the employee's need
- The employee must represent in writing or electronic form that he or she has insufficient cash or liquid assets reasonably available to satisfy the financial need
- A plan administrator may rely on the employee's representation unless the plan administrator has knowledge to the contrary



Procedure

Final Considerations of the Act:



Plan Administrators should coordinate with their payroll and human resource departments to ensure that the mandatory adoption of the elimination of the six-month salary deferral is in effect as of January 1, 2020.



CARES Act

Coronavirus Aid, Relief, and Economic Security Act

IMPACT ON RETIREMENT PLANS

CARES ACT: What we will cover

- Bill signed into Law on March 27, 2020
- CARES Impact to retirement plans:
 1. Coronavirus-related distributions (CRDs)
 2. Participant loan relief (CRLs)
 3. Waiver of RMDs for 401(k), 403(b) and 457(b) plans
- IRS Notice 2020-50
- FAQs

COVID-19 DISTRIBUTION OPTIONS

In addition to the normal distributions available in the existing plan document, special coronavirus-related distribution provisions can be made available to *Qualified* Individuals:

Coronavirus-Related Distribution (CRD) Any distribution made on or after January 1, 2020 and before December 31, 2020 (to a qualifying individual) of up to \$100,000.

Coronavirus-Related Loan Provisions (CRL) Participants may borrow up to the lesser of \$100,000 or 100% of the vested account balance until September 23, 2020. Loan payments due between March 27, 2020 and December 31, 2020 may be deferred for up to one year.

Who is a “Qualified Individual” for a CRD and CRL?

CARES DEFINITION: A Qualified Individual must meet at least one of the criteria listed below:

1. Diagnosed with COVID-19 by CDC recognized test;
2. Whose spouse or dependent is diagnosed with COVID-19; or
3. Who experiences adverse financial consequences as a result of:
 - Being quarantined
 - Being furloughed or laid off
 - Having work hours reduced;
 - Unable to work due to lack of childcare as a result of COVID-19; or
 - The closure or reduced work hours of a business owned or operated by an individual due to COVID-19
4. Individuals meeting other factors as determined by the Secretary of the Treasury (see IRS Notice 2020-50)

IRS Notice 2020-50

- IRS expanded the definition of a Qualified individual (QI) in CARES for more adverse consequences from COVID-19:
 - QI had a reduction in pay
 - QI had reduction in self-employment income
 - QI had a job offer rescinded
 - QI had start date for a job delayed
 - QI experienced adverse financial consequences because spouse *or a* member of QI's household as a result of COVID-19

Adverse financial consequences of member of household

Household member is defined as “Someone who shares the individual’s principal residence”

Children

Other family

Roommates

Boarders

Significant others



- Household member is quarantined, furloughed, laid off, having work hours reduced, unable to work due to lack of childcare, having a reduction in pay (or self-employment income), having a job offer rescinded or start date for a job delayed
- Suffered the closure or reduced work hours of a business owned or operated by QI’s spouse or member of household



Qualifying Events for CRD and CRL:

Event	QI	Spouse	Dependent	Household Member
Diagnosed by an approved test	X	X	X	
Quarantined	X	X		X
Furloughed, laid off, hours cut	X	X		X
Can't work because of childcare	X	X		X
Close or reduce hours of a business	X	X		X
Reduction in pay	X	X		X
Reduction in self-employment income	X	X		X
Job rescinded or start date delayed	X	X		X

CORONAVIRUS-RELATED DISTRIBUTIONS

CRD Details

- 10% early withdrawal penalty tax is *waived*.
- For employer plans, COVID-19 distributions are also *exempt from the 20% federal tax withholding*.
- Ordinary income tax may be *paid* in equal installments *over a three-year period*, beginning in tax year 2020.
- Participants *may repay* CRDs within a specified three-year period, and these repayments will not be subject to the annual contribution limits.
- Participants may *self-certify* they meet the qualifications.



CRD SELF-CERTIFICATION – SAMPLE

The following is an example of a self-certification:

Name: _____ *(and other identifying information requested by the employer for administrative purposes)*

I certify I meet at least one of the following conditions:

(1) I was diagnosed with the virus SARS-CoV-2 or with coronavirus disease 2019 (referred to collectively as 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);

CRD SELF-CERTIFICATION – SAMPLE

- (2) my spouse or my dependent was 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
- (3) I have experienced adverse financial consequences because: (i) I, my spouse, or a member of my household was quarantined, furloughed or laid off, or had work hours reduced due to COVID-19; (ii) I, my spouse, or a member of my household was unable to work due to lack of childcare due to COVID-19;

CRD SELF-CERTIFICATION – SAMPLE

(iii) a business owned or operated by me, my spouse, or a member of my household closed or reduced hours due to COVID-19; or (iv) I, my spouse, or a member of my household had a reduction in pay (or self-employment income) due to COVID-19 or had a job offer rescinded or start date for a job delayed due to COVID-19.

Signature _____

CORONAVIRUS-RELATED DISTRIBUTIONS

Burden of Proof

“Although an administrator may rely on an individual’s certification in making and reporting a distribution, **the individual is entitled to treat the distribution as a coronavirus-related distribution for purposes of the individual’s federal income tax return only if the individual actually meets the eligibility requirements.**” (i.e. burden of proof rests with taxpayer)

Tax Treatment

Qualified individuals will use Form 8915-E to report any recontribution made during the taxable year and to determine the amount of the coronavirus-related distribution includible in income for the taxable year.

CRD TAX TREATMENT

Form 8915-E, Qualified 2020 Disaster Retirement Plan Distributions and Repayments (or if there is no federal income tax return for 2020, by filing just Form 8915-E).

- The 10% additional tax under § 72(t) does **not** apply to any coronavirus-related distribution.
- A coronavirus-related distribution is permitted to be included in income ratably over **3 years**. (election, when made, is irrevocable. Default = 3 yrs)
- A qualified individual is permitted to **recontribute** any portion of a coronavirus-related distribution that is eligible for tax-free rollover treatment to an eligible retirement plan within the 3-year period beginning on the day after the date on which the distribution was received, and the recontribution will be treated as if it were paid in a trustee-to-trustee transfer to an eligible retirement plan.

Form **8915-E**

Qualified 2020 Disaster Retirement Plan Distributions and Repayments (Use for Coronavirus-Related Distributions)

OMB No. 1545-0074

2020

Attachment Sequence No. **915**

Department of the Treasury Internal Revenue Service

Go to www.irs.gov/Form8915E for instructions and the latest information. Attach to 2020 Form 1040, 1040-SR, or 1040-NR.

Name, if married, file a separate form for each spouse required to file 2020 Form 8915-E. See instructions. Your social security number

Fill in Your Address Only if You Are Filing This Form by Itself and Not With Your Tax Return

Home address (number and street, or P.O. box if mail is not delivered to your home) Apt. no. City, town or post office, state, and ZIP code. If you have a foreign address, also complete the space below (see instructions). If this is an amended return, check here Foreign country name Foreign province/state/county Foreign postal code

Before you begin:

- Complete 2020 Form 8915-D, Qualified 2019 Disaster Retirement Plan Distributions and Repayments, and 2020 Form 8915-C, Qualified 2018 Disaster Retirement Plan Distributions and Repayments, if applicable.
- If you completed Part I of 2020 Form 8915-D, or of 2020 Form 8915-C, see the Caution in Column (a) in the instructions to figure the amounts for column (a).

Part I Total Distributions From All Retirement Plans (Including IRAs).



Form 8915-E only covers 2020 coronavirus-related distributions. The distribution must be made before December 31, 2020. See instructions.

Complete lines 1 through 4 of one column before going to the next column.

	(a) Total distributions in 2020 (see instructions)	(b) Qualified 2020 disaster distributions made in 2020 (see instructions)	(c) Allocation of column (b) (see instructions)
1 Distributions from retirement plans (other than IRAs)			
2 Distributions from traditional, SEP, and SIMPLE IRAs			
3 Distributions from Roth IRAs			
4 Totals. Add lines 1 through 3 in columns (a) and (b). Complete column (c) if line 4, column (b), is more than \$100,000. Otherwise, leave column (c) blank			100,000
5 If you completed column (c), enter the excess of the amount on line 4, column (a), over \$100,000. Otherwise, enter the excess of the amount on line 4, column (a), over the amount on line 4, column (b). Report these distributions under the normal rules in accordance with the instructions for your tax return			5

Part II Qualified 2020 Disaster Distributions From Retirement Plans (Other Than IRAs)

6 If you completed line 1, column (c), enter that amount. Otherwise, enter the amount from line 1, column (b)	6
7 Enter the applicable cost of distributions, if any. See instructions	7
8 Subtract line 7 from line 6	8
9 If you elect NOT to spread the taxable amount over 3 years, check this box and enter the amount from line 8 (see instructions). You must check this box if you check the box on line 17. Otherwise, divide line 8 by 3.0	9
10 Enter the total amount of any repayments you made before filing your 2020 tax return. But don't include repayments made later than the due date (including extensions) for that return. Do not use this form to report repayments of qualified 2016, 2017, 2018, or 2019 disaster distributions. See instructions	10
11 Amount subject to tax in 2020. Subtract line 10 from line 9. If zero or less, enter -0-. Include	

Early release drafts are at [IRS.gov/DraftForms](https://www.irs.gov/DraftForms)

Instructions: <https://www.irs.gov/pub/irs-dft/i8915e--dft.pdf>

CORONAVIRUS-RELATED DISTRIBUTIONS

Plan Types

- 401(k), 401(a), 403(b), governmental 457(b), IRA

Plan Adoption Requirements

- This is an optional provision that requires a plan document amendment. The plan does not have to be amended for the CARES Act provisions until the **last day of the first plan year beginning after January 1, 2022**. It is not necessary for the plan to have an existing hardship or unforeseeable emergency provision to take advantage of CRDs.

Effective Date

- Distributions made before December 31, 2020.

Wk	Sun	Mon	Tue	Wed	Thu	Fri	Sat
52							1 <small>New Year's Day</small>
1	2	3	4	5	6	7	8
2	9	10	11	12	13	14	15
3	16	17 <small>Martin Luther King Jr. Day</small>	18	19	20	21	22
4	23	24	25	26	27	28	29
5	30	31					



LOANS

CORONAVIRUS-RELATED LOANS

- Double loan Limits during eligible period* - loan limits for new loans are increased to the lesser of \$100,000 or 100% of the participant's vested account balance, reduced by the balance of any outstanding loans.
- Deferral of Payments* - for new *or existing* loans during the eligible period, participants may choose to delay loan repayments due between March 27 and December 31, 2020 for up to one year.
- *Is limited to new or outstanding loans to a Qualified Individual on or *after* March 27, 2020 and *before* September 23, 2020.

Employers can rely on employee's certification of eligibility.

CORONAVIRUS-RELATED LOANS

- Plan Types
 - 401(k), 401(a), 403(b), governmental 457(b)
- Effective Date
 - Loans made during the 180-day period after the enactment of the Act (March 27, 2020 to September 23, 2020).

PLAN AMENDMENTS

- CRD and CRLs are optional
- Both require a plan document amendment
- Plan does not have to be amended until the *last day of the first plan year beginning on or after January 1, 2022* (January 1, 2024 for govt plans).
- It is not necessary for the plan to have an existing hardship or unforeseeable emergency provision to take advantage of CRDs.
- The plan must currently allow for loans, or be amended to allow loans by the end of the current plan year, in order to take advantage of the CRLs.

2020 REQUIRED MINIMUM DISTRIBUTIONS (RMDs)

Highlights:

- RMD payments due in 2020 from qualified Defined Contribution plans are waived.
- The CARES Act does not provide any relief for RMDs from Defined Benefit nor Cash Balance Plans.
- Notice 2020-51 permitted rollovers of waived RMDs, including an extension of the 60-day rollover period through August 31, 2020

2020 RMD WAIVER OPTION

Details

- Waives RMD payments due in calendar year 2020 for:
 - Participants who turned age 70 ½ prior to 2019
 - Participants who turned age 70 ½ in 2019 and did not receive their first RMD for 2019 on or before January 1, 2020 or their 2020 RMD
 - Beneficiary RMDs for beneficiaries receiving life expectancy payments
- Beneficiaries who have an account balance that is subject to the five-year distribution rule may extend their required distribution by one year (full distribution of the account must be made by the 6th anniversary of the participant's death).

PLAN AMENDMENTS for RMDs

Plan Types

- 401(k), 401(a), 403(b), IRA, governmental 457(b)

Plan Adoption Requirements

- This is a legislative change that automatically results in the need for a plan document amendment being enacted prior to the last day of the first plan year beginning after January 1, 2022 (or 2024 for governmental plans). TPAs will handle with 6 year plan doc restatement or with next round of regulatory amendments closer to the amendment due date.
- See sample amendments in Notice 2020-51

Defined Benefit Plan Changes

- Delay of required contributions due in 2020 is permissible until January 1, 2021
 - Application note: if paid after tax return extended due date will *no longer* be deductible on return.
- The payment, plus accrued interest from the time it was due, will need to be funded.
- For benefit restriction purposes a plan sponsor may elect to use the Adjusted Funding Target Attainment Percentage (AFTAP) for the last plan year ending prior to 1.1.2020 for any plan year that includes calendar 2020.



2020 DOL E- Disclosure Rules

DOL E-Disclosure Rules:

AGENDA

- Summary of the 2020 E-Disclosure Rule
- Current Regulations from 2002
- 7 Top E-Disclosure Questions
- Best practices



Summary of the 2020 E-Disclosure Rule

- The “Default Electronic Disclosure by Employee Pension Benefit Plans Under ERISA” rules released by the Department of Labor (DOL) in May 2020 were effective July 27, 2020: however, due to the coronavirus pandemic, the DOL has said it would not take any enforcement action against employers who adopted the policies early.
- Under these guidelines, employers can send retirement plan documents required by ERISA or DOL regulations to plan participants, beneficiaries or others electronically. The participant has the option to receive **electronic or paper documents**.
- The e-delivery option only covers documents or information required by ERISA or DOL Regulations. The option does not cover IRS and treasury regulations and does not include health and welfare benefit plans.
- This new rule is voluntary and does not replace current regulations. These new guidelines do not replace the 2002 Guidelines, Wired@Work or Affirmative Consent guidelines covering IRS and DOL documents, but provide an alternative option for required notices.



2002 DOL Regulations

The 2002 Regulations allow employees to receive e-notices if:

- They agreed to the electronic communication
- They are “Wired @ Work” meaning the employee has access to e-communications at all work locations and email is an integral part of their work function
- The electronic communications included the importance of the document and a right to receive it in paper form
- Employers with “non-wired” employees were required to send paper notices

1. How Does E-Disclosure Work?

To utilize the new e-disclosure rule, the plan administrator must send an initial notification about online options to covered participants.

As new documents are made available, the Plan Administrator sends out a Notification of Internet Availability (NOIA)

- Online documents can be located on employer or service provider websites
- The employer can attach the documents to an email



2. What Does The Initial Notification Include?



- Initial notification must be in **paper** and include a statement regarding electronic transmission of information
- Statement that information will be available on the website for at least a year, or until it is replaced by an updated document if longer than a year
- Statement that the recipient is entitled to paper documents for a specific document or all documents along with instructions on how to request them

3. What is a Notification of Internet Availability (NOIA)?



The NOIA must contain the following:

- A statement in the title or subject line that reads “Disclosure about your retirement plan”
- A statement that “Important information about your retirement plan is now available. Please review this information”
- The electronic communications must include the importance of the document and a right to receive it in paper form
- The covered document must be identified by name or if not self evident, a brief description of the the covered document should be provided

3. What is a Notification of Internet Availability (NOIA)? (continued)



The NOIA must contain the following (continued):

- Telephone number to contact the Plan Administrator or other designated plan representative
- If the document is posted on-line
 - Website address with instructions as to how to locate the document on the website or
 - A direct hyperlink to the covered document

4. What Are Acceptable Methods of E-Delivery?



Email Delivery: Covered documents can be sent directly to the electronic addresses of covered individuals with the covered document in the body of the email or as an attachment to the email.

Website posting: Covered documents can be posted to a website once the NOIA is sent to participants.

5. Who is Covered?

Plan participants, beneficiaries and others, who provide their employer, plan sponsor or plan administrator with an electronic address and are entitled to receive covered documents.

An employee who receives an email address from their employer for job related purposes can include covered documents, but the email address can not be provided to exclusively send covered documents.



6. What is a Covered Document?

A covered document includes any information the plan administrator must give to plan participants and beneficiaries under Title 1 of the Act except for documents available upon request.

Examples include:

- Notices related to a qualified default investment alternative (QDIA)
- Automatic enrollment notices
- Summary plan description
- Summary annual report
- Annual participant statements
- Annual participant fee disclosures



7. What Happens If An Electronic Address Is Invalid?

CHECKLIST

<input type="checkbox"/>	_____
<input type="checkbox"/>	_____
<input type="checkbox"/>	_____
<input type="checkbox"/>	_____
<input type="checkbox"/>	_____

Plan administrators must have a system designed to alert them if the participant's electronic address is invalid or inoperable. If that occurs, the plan administrator must attempt to correct the issue promptly or treat the participant as opting out of e-delivery and mail paper notices.

Final Thoughts - Best Practices to Implement Now

BEST
PRACTICE



- Obtain work and personal email addresses from employees
- Obtain cell phone numbers as an alternative if personal email is not available
- Revise termination processes to include obtaining personal contact data
- Revise website, if needed, so that notices to participants are clear and obvious



**ROLL
OVER**

Revenue Procedure 2020-46
(Waiver of 60-day rollover
requirement)

Effective October 16, 2020

What is the 60-day Rollover Requirement:

An eligible distribution from an Individual Retirement Account (IRA) or qualified plan retirement account can only qualify for tax-free rollover treatment if it is contributed to another IRA or qualified Plan by the 60th day after it was received by the taxpayer.



Rules Under Revenue Procedure 2016-47:

Revenue Procedure 2016-47 provides a list of conditions for self-certification of eligibility for a waiver of the 60-day rollover rule.

Revenue Procedure 2016-47 also allows the IRS to grant a waiver of the 60-day requirement in the course of an examination.



Self-Certification Under Rev. Proc. 2016-47

The Trustee may honor a taxpayer's self-certification after the 60-day time period for any of the following reasons:

1. An error by the distributing or recipient financial institution
2. A misplaced distribution check that was never cashed
3. A distribution deposited and remaining in an account that the taxpayer mistakenly thought was an eligible retirement plan
4. Severe damage to the taxpayer's principal residence
5. Death of a member of the taxpayer's family
6. Serious illness of the taxpayer or a member of the taxpayer's family

Self-Certification Under Rev. Proc. 2016-47

The Trustee may honor a taxpayer's self-certification after the 60-day time period for any of the following reasons (Continued):

7. Incarceration of the taxpayer
8. Restrictions imposed by a foreign country
9. A postal error
10. A delay in obtaining information from the distributing plan or IRA that was required by the recipient plan or IRA, despite the taxpayer's reasonable efforts to obtain it
11. A return to the taxpayer of the proceeds of a federal tax levy on a plan or IRA

Additional Reason for Self-Certification Under Rev. Proc. 2020-46

Revenue Procedure 2020-46 updated the list of conditions provided in revenue procedure 2016-47 to add a new reason for self certification of eligibility for a waiver of the 60-day rollover requirement – a distribution was made to a **state's unclaimed property fund.**

Unclaimed Property and Revenue Ruling 2020-24

Rev. Rul. 2020-24 clarifies the federal income tax withholding and reporting obligations that apply for the year a payment is made from a qualified plan to a state unclaimed property fund. It does so by examining whether under specific circumstances the payment of an individual's accrued benefit from a plan is subject to federal income tax withholding under Code Section 3405, and whether the payment is subject to reporting under Code Section 6047.

Letter for Self-Certification

Certification for Late Rollover Contribution

Name _____
Address _____
City, State, ZIP Code _____
Date: _____

Plan Administrator/Financial Institution
Address _____
City, State, ZIP Code _____

Dear Sir or Madam:

Pursuant to Internal Revenue Service (IRS) Revenue Procedure 2020-46, I certify that my contribution of \$ [ENTER AMOUNT] missed the 60-day rollover deadline for the reason(s) listed below under Reasons for Late Contribution. I am making this contribution as soon as practicable after the reason or reasons listed below no longer prevent me from making the contribution. I understand that this certification concerns only the 60-day requirement for a rollover and that, to complete the rollover, I must comply with all other tax law requirements for a valid rollover and with your rollover procedures.

Pursuant to Revenue Procedure 2020-46, unless you have actual knowledge to the contrary, you may rely on this certification to show that I have satisfied the conditions for a waiver of the 60-day rollover requirement for the amount identified above. You may not rely on this certification in determining whether the contribution satisfies other requirements for a valid rollover.

Letter for Self-Certification

Reasons for Late Contribution ¶

I missed the 60-day rollover deadline for the following reason(s) (check all that apply): ¶

¶

- An error was committed by the financial institution making the distribution or receiving the contribution. ¶
- The distribution was in the form of a check and the check was misplaced and never cashed. ¶
- The distribution was deposited into and remained in an account that I mistakenly thought was a retirement plan or IRA. ¶
- My principal residence was severely damaged. ¶
- One of my family members died. ¶
- I or one of my family members was seriously ill. ¶
- I was incarcerated. ¶
- Restrictions were imposed by a foreign country. ¶
- A postal error occurred. ¶
- The distribution was made on account of an IRS levy and the proceeds of the levy have been returned to me. ¶
- The party making the distribution delayed providing information that the receiving plan or IRA required to complete the rollover despite my reasonable efforts to obtain the information. ¶
- The distribution was made to a state unclaimed property fund. ¶

Letter for Self-Certification

Signature

I declare that the representations made in this certification are true and that the IRS has not previously denied a request for a waiver of the 60-day rollover requirement with respect to a rollover of all or part of the distribution to which this contribution relates. I understand that in the event I am audited and the IRS does not grant a waiver for this contribution, I may be subject to income and excise taxes, interest, and penalties. If the contribution is made to an IRA, I understand you will report the contribution to the IRS. I also understand that I should retain a copy of this signed certification with my tax records.

Signature: _____

Final Considerations of Rev. Proc 2020-46:



- The new reason for self-certification may provide an avenue for plan administrators to “pay out” participants who can not be found or turnover uncashed checks to a state’s unclaimed property fund. Revenue Ruling 2020-24 clarifies the federal income tax withholdings on funds paid over to state unclaimed property funds.



Questions?

FREQUENTLY ASKED QUESTIONS



Bi-Partisan Budget Act: When do you need to adopt plan amendments related to the hardship withdrawal changes?

- Sponsors of pre-approved plan programs will also need to adopt interim amendments to address the hardship distribution changes, which for 401(k) plans is the interim amendment deadline for required amendments, which varies depending on the plan year, fiscal year of the plan sponsor, and on a tax filing extension. **Specifically, it is the later of the plan sponsor's tax filing deadline (including extensions) for the tax year in which the plan amendment is effective or the last day of the plan year in which the amendment is effective.**
- For non-governmental, individually designed 401(k) plans, the deadline to adopt an amendment for any of these required or optional changes is the end of the second calendar year that begins after the issuance of the Required Amendment List that includes these changes. For example, if the hardship regulations are included in the 2019 Required Amendment List, the amendment must be adopted by December 31, 2021.

Cares Act - Are terminated participants eligible for CRD?

- Yes. As long as the plan allows for CRDs and the participant is a Qualified Individual, then the individual is entitled to treat the distribution as a CRD—there is no 10% additional tax; the amount can be included in income over three years; and there is a three-year repayment right.

Are wages being paid under the Families First Coronavirus Response Act (FFCRA) considered eligible 401(k) plan wages?

The CARES Act does not change the definition of eligible compensation. The terms of the plan document should be followed.

If taxable to the participant, unless it falls under another type of compensation exclusion, it is eligible compensation and should be included in the calculation of contributions.

It generally will not be considered excluded under fringe benefits unless it is paid by an outside company via a welfare benefit plan sponsored by the employer.

2020 E Disclosure Rule: Can Plan sponsors provide electronic disclosures to terminated employees who are still Plan participants?

Yes, so long as the plan administrator has a valid electronic address for the former employee. Under the 2020 E Disclosure Rules, the plan administrator must either ensure that a former employee receiving covered documents via an employer-assigned email address has continued availability of such electronic address or obtain a new electronic address from the former employee that enables receipt of covered documents following termination of employment.

2020 E Disclosure Rule: Can Plan participants still request paper copies?

Yes, plan participants (and beneficiaries and alternate payees) can still request a paper copy of any document disclosed under the 2020 E Disclosure Rule, and the plan administrator must provide at least one copy free of charge. Plan participants, beneficiaries and alternate payees also have the option to “globally opt out” of all electronic disclosures and receive paper copies for all disclosures and notices.

Rev Proc 2020-46: Do you have to report a payment made to a state's unclaimed property fund on Form 1099-R?

Yes, The IRS also holds that the plan's payment of the individual's accrued benefit, including both the amount sent to the State unclaimed property fund and the amount withheld, is a designated distribution under Section 3405(e)(1) that exceeds the reporting threshold. Accordingly, the IRS says, the employer is required to report that designated distribution in Box 1, and the federal income tax withheld in Box 4, of the Form 1099-R for 2020.

Thank you



Crystal Skotedis, CPA, CFE
Principal | Boyer & Ritter LLC
cskotedis@cpabr.com
717.761-7210 x 1253



Kimbarley Williams, CPA
Principal | Boyer & Ritter LLC
kwilliams@cpabr.com
717.761.7210 x1244