

Executive Report

Plan Sponsor Council of America • Advocacy, Education, and Insight for America's Retirement

May 2020

The Coronavirus, Aid, Relief and Economic Security (CARES) Act

PSCA has compiled (and continues to update) a [list of resources](#) for plan sponsors regarding the impact of the Coronavirus on retirement plans.

Regulations

DOL Issues Final Regs on E-Delivery

Acknowledging that technology has made significant strides over the past two decades—and that many Americans are working remotely during the COVID crisis—the Labor Department has unveiled a new safe harbor for electronic disclosures. [Read more>](#)

IRS Announces Slight Bump in 2021 HSA Limits

In Rev. Proc. 2020-32, the IRS announced that for calendar year 2021, the annual limitation on deductions under Code Section 223(b)(2)(A) for an individual with self-only coverage under a high deductible health plan (HDHP) is \$3,600, up \$50 from the 2020 limits. [Read more>](#)

DOL: Stop Including PII on Form 5500 Filings

The Labor Department wants you (or your plan administrator) to stop including Personal Identifiable Information (PII) on Form 5500 filings. [Read more>](#)

More Relief on Deadlines Applicable to Employment Taxes, Benefits and Exempts

While there's still no Form 5500 filing relief, the IRS in [Notice 2020-35](#) has provided additional administrative relief regarding deadlines applicable to employment taxes, employee benefits and exempt organizations affected by the pandemic.

IRS Issues Proposed Reg on Withholding on Certain Periodic Retirement and Annuity Payments

The IRS has issued proposed regulations that provide rules for federal income tax withholding on certain periodic retirement and annuity payments. This proposed regulation would affect payors of certain periodic payments, plan administrators that are required to withhold on such payments and payees who receive such payments. [Read more>](#)

PEP RFI Proposal Lands at OMB

While much of the government is working from home, the Labor Department has dropped off its proposal for a Request for Information on Pooled Employer Plans at the Office of Management and Budget (OMB). [Read more>](#)



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Is That COVID-19 Distribution Subject to State Taxes?

Those receiving those distributions (and those who process them) need to be aware of the potential sting of state tax liability due to differences between federal and state tax rules. To varying degrees, most state income tax regimes rely on the federal income tax regime, including the Internal Revenue Code and the associated Treasury regulations. That is, depending on the particular state, COVID-19 distributions may be currently subject to state taxes. [Read more>](#)

IRS Answers Some CARES Act Questions

The May 4 Q&As concern Section 2202 of the CARES Act, which provides for special distribution options and rollover rules for retirement plans and IRAs and expands permissible loans from certain retirement plans. [Read more>](#)

Legislation

Senate Bill Would Expand Employee Retention Credit

Introduced May 21 by Sen. Mark Warner (D-VA) along with eight original cosponsors, the Paycheck Security Act (S. 3793) would amend the CARES Act to create a national paycheck security program whereby the federal government would help cover the payroll expenses for workers who have been furloughed or laid off because of the coronavirus. [Read more>](#)

House-Passed Stimulus Bill Includes RMD Relief, PPP Clarity

The \$3 trillion bill which passed May 15 includes retirement provisions advocated by the American Retirement Association. While it has already been declared “dead on arrival” in the Senate, that’s not the end of the story. Included among the retirement-based provisions are additional relief from required minimum distributions, clarifications to the retirement provisions enacted under the CARES Act, funding relief for single-employer pension plans, relief for troubled multiemployer pension plans and an assortment of other changes. [Read more>](#)

New Mexico ‘Work and Save’ Program on the Horizon

New Mexico has joined the list of states that provide a state-run retirement plan safety net. But while the legislation creating the New Mexico Work and Save program has been enacted, the state body that will implement it has some time to get it up and running. [Read more>](#)

Litigation

ADP MEP Draws Schlichter Scrutiny

For the second time in a week, suit has been filed against the fiduciaries of the \$4.4 billion ADP TotalSource Retirement Savings Plan – but with some interesting twists, including allegations about the use of “confidential plan participant data for profit.” [Read more>](#)

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Split Decision in Excessive Fee Suit

A federal judge has rendered a split decision in an excessive fee suit – though it seems fair to say that, at least in the judgment of this court, the plaintiffs’ experts didn’t live up to their “billing.” [Read more>](#)

Appellate Court Calls for Another Look at a 403(b) Suit

St. Louis-based Washington University, which had won a dismissal of claims in an excessive fee suit, will now have to confront some of those charges. [Read more>](#)

Judge Sacks Trader Joe’s Excessive Fee Suit

Plan fiduciaries found a friendly judicial ear in their motion to dismiss an excessive fee suit –aided by what appears to have been a weak case by the plaintiffs. [Read more>](#)

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