

Coronavirus Relief Update



PSCA

Plan Sponsor Council
of America

What We're Talking About

- Legislative Relief
 - Participant Relief
 - Plan Sponsor Relief
 - Why It Matters.....
 - ARA Legislative Proposal for DC Plan Funding Relief
 - Notice 2020-18: IRS Filing and Payment Deadline Q & A
 - ARA Requests to DOL and Treasury for Further Regulatory Relief
 - How You Can Help!
 - Questions
-



Coronavirus Legislative Relief

CARES Act – Coronavirus Aid, Relief, and Economic Security Act

Section 2202 – Retirement
Distribution and Loan Rules

Section 2203 – Waiver of
Required Minimum Distributions
for 2020

Section 3607 – Expansion of
DOL Authority to Postpone
Deadlines

Section 3608 – Single-employer
Plan Funding Rules



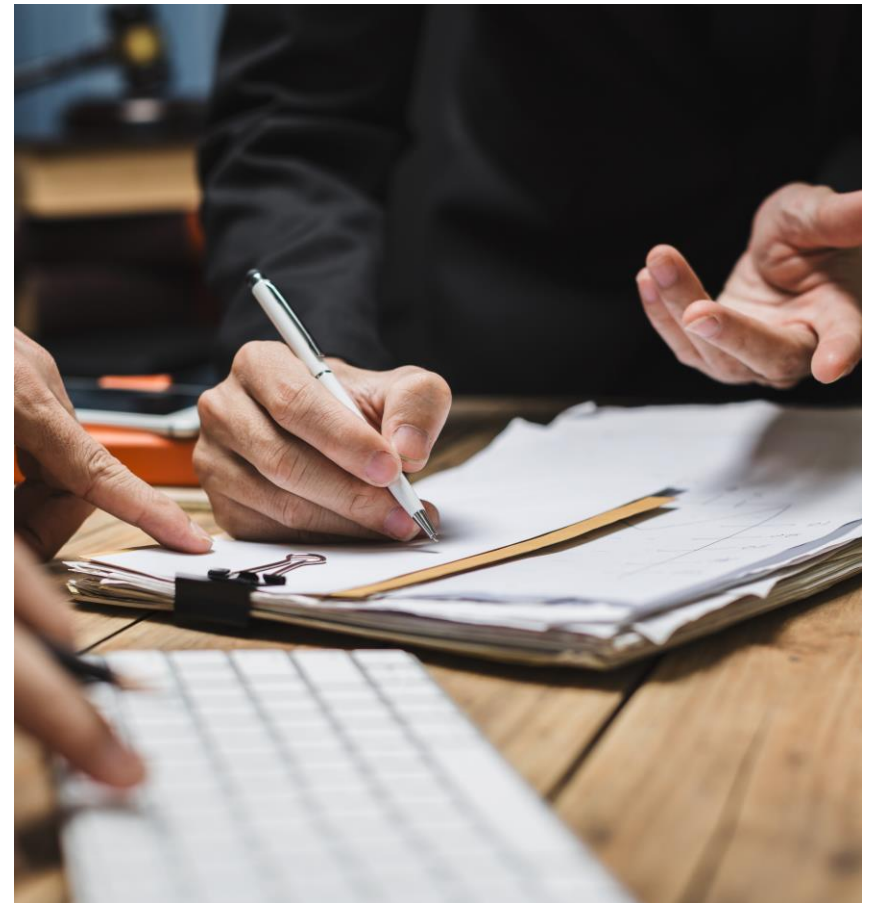
Participant Relief



- A new optional distributable event for a “Coronavirus-related distribution”
- Expansion of loan access, repayment flexibility
- Waiver of Required Minimum Distribution requirements
- Student loan repayment help
- Extended Health Savings Account (HSA) contribution deadline

Plan Sponsor Relief

- Single employer DB funding
- Extended plan amendment deadline for adopting participant relief (last day of the first plan year beginning on or after January 1, 2022)
- Expands the definition of employer-provided educational assistance to include up to \$5,250 in student loan payments made by an employer between the date of enactment and the end of 2020
- Expanded Health Savings Account (HSA) coverages
- Due date now 7/15/20 to make deductible retirement contributions for 2019 if the employer's tax return due date is April 15, 2020
- Department of Labor given expanded authority to postpone certain deadlines under ERISA



Coronavirus-related Distribution (Section 2202)



Eligible Plans: 401(a) – qualified plans, 408(a) – IRAs, 408(b) – individual retirement annuity, 403(a) – annuity plan, 457(b) – eligible deferred compensation plan, 403(b) – annuity contracts

- Distributions between 1/1/20 and 12/31/20
- Maximum is \$100,000 per individual (all plans are aggregated)
- Not subject to 10% additional tax under IRC §72(t)
- Not treated as eligible for rollover (so no 20% mandatory withholding notice required)
- Income taxes can be paid over a 3-year period unless the individual elects otherwise
- Does not have to meet other distributable events under plan (59 ½, severance of employment, etc.)

Qualifying Conditions – An Individual....

Who Is diagnosed with the virus (via test approved by CDC)

Whose spouse or dependent is diagnosed with virus

Who experiences adverse financial consequences as a result of:

- Quarantine

- Furlough

- Laid Off

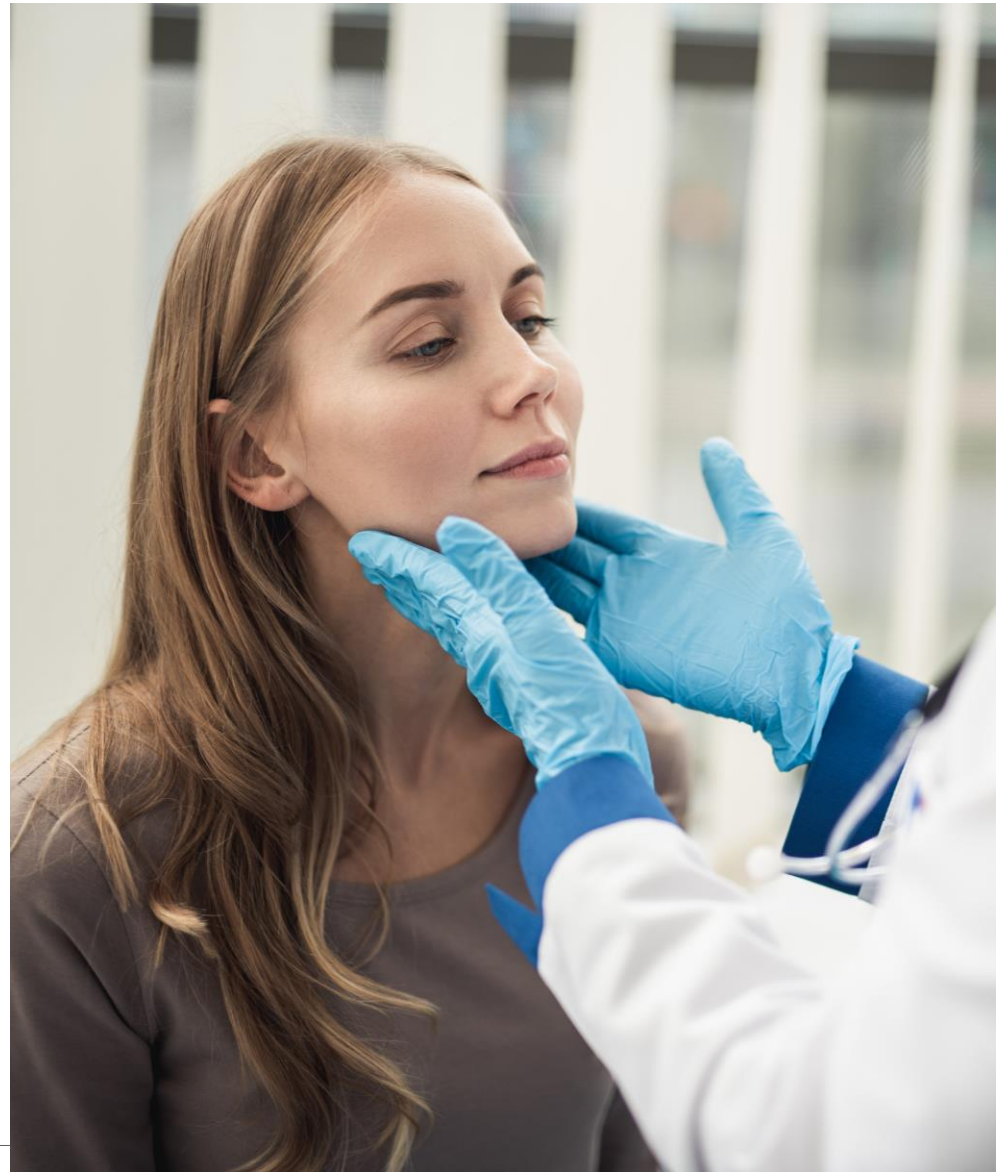
- Hours reduced

- Unable to work due to childcare

- Closing of business

- Or other factors as determined by the Secretary of the Treasury

Plan may rely on participant certification



Coronavirus-related Distributions May Be Repaid

- Three-year period (beginning on day after the date distribution received)
- May be made as one or more contributions to plan
- Repayments may be in amount up to the distribution (cannot adjust for earnings)
- May be made to an eligible retirement plan that the individual is eligible to roll over money into



Loans (Section 2202)

- Loan limit **increased** to lesser of \$100,000 or 100% of vested account balance
 - Only up to 180 days after enactment
- Delay of Payment
 - Applies to payments due from the date of enactment through December 31, 2020
 - May be delayed for one year
 - Due date adjusted (so can go beyond 5-year period)
 - Additional interest accrues
- Qualifying employees – same definition as for the previously discussed withdrawals
- Each of these components is optional*

**Based on IRS Notice 2005-92*



Distribution and Loan Administration

- May apply rules now and amend document later
- Plan Amendments
 - Last day of first plan year beginning on or after January 1, 2022
 - So for calendar year plans – December 31, 2022
 - Secretary of the Treasury can designate a later date
 - Governmental Plans – 2 years after the date for non-governmental plans
 - ...in other words, the last day of 2024 PY unless designated later by Secretary of the Treasury



Triggering Event: What is Severance of Employment?

- The determination of whether an individual has severed employment is based on the facts and circumstances.
 - No severance if there's a reasonable expectation the individual will return to work.
- If severance is determined
 - A distributable event for most plans.
 - Could accelerate loan repayment
 - Could result in partial plan termination (and full vesting)
- If no severance
 - None of the above apply
 - Existing loan program may allow suspension for unpaid leave of absence (though term of loan cannot be extended).



Waiver of 2020 RMDs (Section 2203)

- Applies to:
 - DC Plans
 - 403(a)
 - 403(b)
 - 457(b) – governmental plans
 - IRA
- Does not apply to DB plans
- RMDs for the 2020 Distribution Year are waived and do not need to be distributed



Limited Waiver of 2019 RMDs



- If a participant turned 70 ½ in 2019 and has a Required Beginning Date of 4/1/20:
 - But did not yet take the distribution – then no distribution has to be taken in 2020 (for the 2019 distribution year)
 - If a distribution was taken in 2019, there is no relief
 - If distribution was taken after 12/31/19, it is subject to the waiver for 2020 and the rollover and re-contributions rules in IRS guidance

Education Assistance/Student Loan Repayments (Section 2206)

§127 – Education Assistance Programs updated

- Employee does not have to include payments by employer, up to \$5,250 as taxable income
- Employer payments to employee or lender prior to January 1, 2021
- Covers principal or interest
- Tuition, fees, books, etc.
- Effective for payments made after the date of enactment



Health Savings Accounts

- All telehealth and other remote care services can be covered pre-deductible without violating federal rules for high deductible health plans (“HDHPs”) paired with an HSA (this is only permitted for plan years that begin on or before 12/31/2021).
- For HSAs (also FSA and HRAs)
 - Eliminates the rule that limits the use of HSAs to prescribed medicines or drugs
 - Allows for “menstrual care products” to be reimbursed from an HSA (tampons, pads, lines, cup, sponge and similar products)
 - Applies to expenses incurred after 12/31/2019.
- Individuals may make contributions to HSA or Archer MSA for 2019 at any time up to July 15, 2020.



DOL Authority to Postpone Certain Deadlines (Section 3607)

Updates ERISA Section 518

- Prior limited authority to “...a terroristic or military action...”
- Now includes ..”public health emergency declared by Secretary of Health and Human Services..”
- Secretary may delay reporting or disclosure requirements by up to one year



Single Employer Funding Relief (Section 3608)



- Applies to defined benefit and money purchase pension plans
- Delay in contribution deadlines: any contribution due in calendar year 2020 (including quarterly contributions) has delayed due date of January 1, 2021
- Must pay interest on delayed contributions, from original due date to payment date, using the effective rate of interest for the plan for the plan year that includes the payment date
 - For non calendar year plans, the effective rate of interest could be different for contributions due in 2020, depending what plan year they are due for
 - E.g., payment for PYE 6/30/20 could use a different rate than first quarterly contribution due for PYE 6/30/21

What's Next



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Why it Matters...

Survey of ASPPA members on March 20th

Looking to assess the impact current conditions will have on retirement plans if no relief is granted

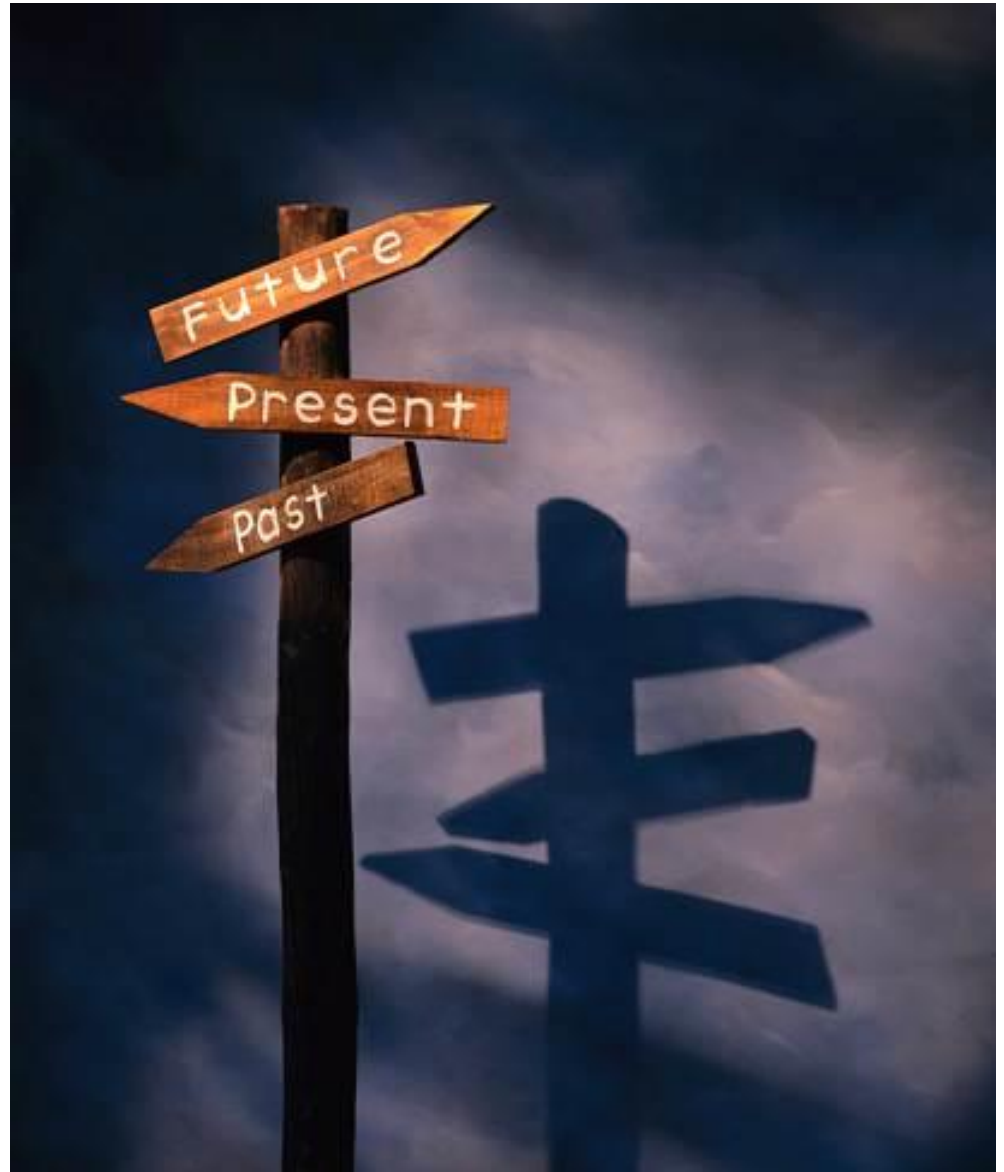
Results article at asppa-net.org/news/impact-coronavirus):

- 111 responses

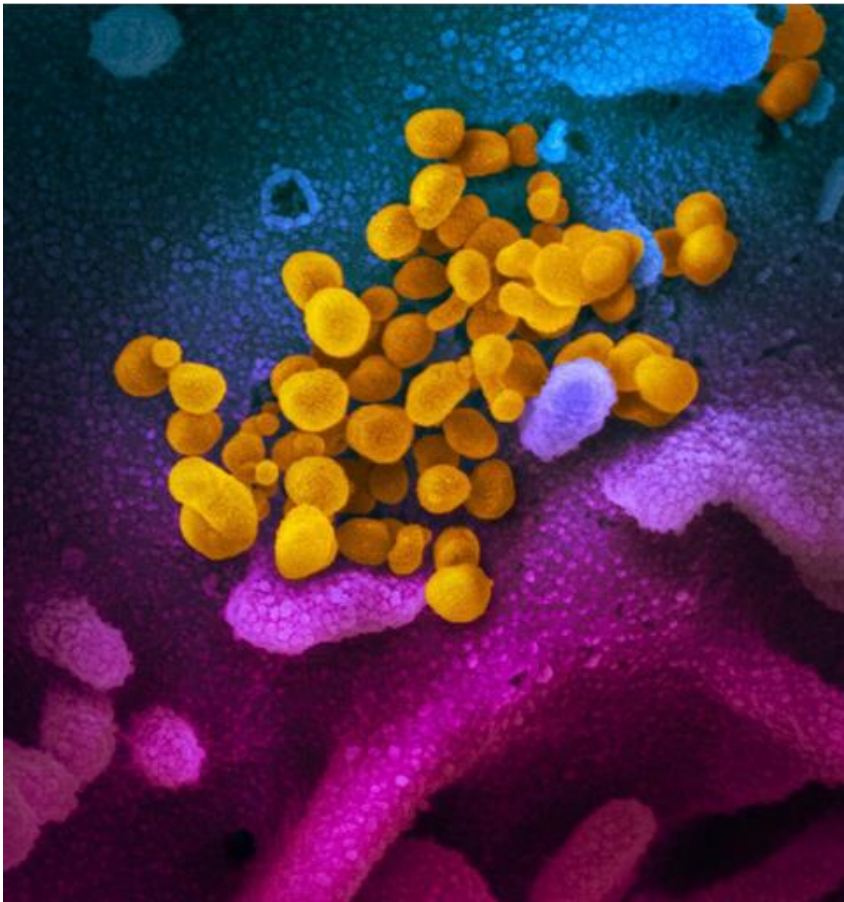
- 93 work primarily with plans under \$10 million in assets

- Weighted average of impact indicates **41.59% of small business clients would be impacted and candidates for termination**

- Based on 2017 Form 5500 data of 571,000 401(k) plans (90% with less than \$10 million in assets) = **216,000** plans are at risk



ARA DC Plan Funding Relief Proposal



- Allow all Plan Sponsors to suspend any required ER contributions for 2020
 - Participant Notice Required within 60 days
- Allow Plan Sponsors with fewer than 500 participants to waive any ER contributions that have not yet been made to satisfy their 2019 obligations
 - Participant Notice Required within 120 days
- Plan Sponsors using these options would not be subject to nondiscrimination rules or top-heavy requirements for the year

IRS Filing and Payment Deadlines Q & A – Notice 2020-18

- Deadline for Federal Income Tax return or payment due on April 15, 2020 (no other dates) is now July 15, 2020
 - Note: includes those fiscal year filers on extension to 4/15/20
- Applies to all – not only those affected by COVID-19
- Forms
 - 1040 series (individual tax returns)
 - 1041 series (trusts and estates)
 - 1120 series (corporate tax returns)
 - 8960 (net investment income tax individuals, estates and trusts)
 - 8991 (tax on base erosion payments of taxpayers with substantial gross receipts)
 - 990T (exempt organization business income tax) – 4/15 postponed to July 15th but 5/15 not postponed
 - 1065 series (partnership returns) due on March 16th was NOT postponed

IRS Filing and Payment Deadlines Q & A – Notice 2020-18

- Due date of IRA contributions now July 15, 2020
- §72(t) tax payments – 10% also extended to July 15, 2020
- HSA Contributions for 2019 Plan Year extended to July 15, 2020
- Plan contributions - §404(a)(6) - filing with Form 1120 deadline now July 15, 2020

**DEADLINE
* EXTENDED ***

ARA Requested Relief from IRS and DOL

- March 16, 2020, letter to both agencies requested:
 - Automatic extension to October 15th for 5500 Series
 - Corresponding extensions for non-calendar year plans
 - 90-day extension for correcting failed ADP or ACP test and refunds without the 10% penalty applying
 - 120-day extension of the DB preapproved plan restatement deadline (currently April 30, 2020) (IRS extended to July 31, 2020)
 - 90 day extension of the 1099-R e-filing deadline for employers (normally March 31, 2020)
 - Reasonable relief from notices required to be provided to plan participants under Title I of ERISA



ARA Requested Relief from IRS and DOL

- Remedial amendment period for 403(b) arrangements
 - Currently March 31, 2020
 - ARA recommended extension of 1 year
 - IRS released guidance on Friday, March 27th extending amendment period to June 30th, 2020 (three month extension)
 - Click [HERE](#) for IRS Guidance



ARA Requested Relief from IRS and DOL

- March 24th letter to Treasury
 - Safe Harbor Plan may be amended to reduce or cease contributions without 30 day notice
 - Notify employees within 90 days
 - Plan amendment adopted no later than last day of applicable plan year
 - Retain SH status (so not top-heavy if using the exemption for SH plans)
 - Change is due to a substantial business hardship, and
 - No HCE may make elective deferrals or employee contributions the remainder of the year
 - Partial Terminations
 - No partial termination if business affected and employees rehired by December 31, 2020, or
 - Under facts and circumstances a partial termination did not occur if no more than 6 months after national emergency order is lifted that the number of participants is at least 80% of amount on March 13, 2020 (date national emergency declared)
 - Does not address what's severance of employment

ARA Requested Relief from IRS and DOL



March 24th letter to Treasury

- Allow employer to change the date of a loan default from date of termination to a later date (not earlier than December 31, 2020) so rehires are not penalized
 - *This is now moot for many participants due to CARES Act ability to delay payment by 1 year*
- Rule that Service issue guidance that national emergency meets FEMA requirements so that it satisfies safe harbor hardship requirement
- Ease administrative requirements for loans and hardships – documentation would be retained by employee
- Form 5498 (IRA contributions) reporting delayed until August 31, 2020 or later
- Changes to Forms 1099-R and 5498 be optional for 2020 and not mandatory until 2021

How You Can Help!

Don't let over 200,000 small businesses be forced to terminate their DC plan!

Call your Members of Congress at (202) 224-3121

Write your Members of Congress through our grassroots advocacy platform at araadvocacy.org



Questions

Coronavirus Resources Page is now online from ARA

<https://www.pasca.org/industry-intel/coronavirus-impact-retirement-plans>

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