



CARES ACT ADMINISTRATIVE Q&As

PLAN TYPE SPECIFIC ISSUES

The CARES Act didn't specifically address longer-term issues that have arisen in the wake of the COVID-19 outbreak. Below we address several key issues regarding safe harbor & SIMPLE plans, government plans, as well as defined benefit and cash balance plans.

Safe Harbor & SIMPLE Plans

SH1: What do you believe the likelihood is of relief for plan sponsors from the 30-day advance notice for suspending safe harbor contributions?

A: We think there is a good chance the IRS will provide relief from the 30-day advance notice requirement. We are not as optimistic, however, about the plan being able to retain safe harbor status for the year in which the contribution is discontinued.

SH2: If a plan sponsor chooses to suspend their safe harbor 3% nonelective contribution now, can they restart later in the year if business is better? What if it is a match safe harbor?

A: A matching safe harbor plan can generally not be added once the plan year has begun. However, neither the law nor the regulations address this issue with respect to the nonelective contribution. There doesn't appear to be anything in the law precluding this, particularly in light of the SECURE Act, which allows a plan sponsor to add a nonelective safe harbor plan after the plan year has ended.

SH3: If a plan sponsor ceases the safe harbor contribution during the 2020 plan year, when is the contribution due?

A: By the due date of the 2020 tax return, including extensions. This is the same as ongoing plans.

SH4: Is there any relief for employers with SIMPLE IRA plans? Do you see any possibility of SIMPLE IRA plan sponsors being able to terminate their SIMPLE IRA plan mid-year or skip their matches for 2020?

A: We have received a lot of inquiries about SIMPLE IRA plan funding. Based on past experience, if relief is granted to Safe Harbor 401(k) plans it most likely will be for SIMPLE IRAs as well



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Government Plans

GP1: How does the CARES Act apply to governmental or non-ERISA church plans?

A: The following provisions of the CARES Act apply to governmental and non-ERISA church plans (but please note that the required amendment date may be different for governmental plans):

- The distribution and loan provisions under Section 2202
- The waiver of the required minimum distributions under Section 2203

Note: The provision for the DOL to extend the deadline for plan notices (Section 3607) would not apply because these plans are not subject to ERISA:

Note: The provision regarding Single Plan Funding relief is not applicable to governmental and non-ERISA church plans because they are not subject to minimum funding requirements.



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Defined Benefit & Cash Balance Plans

DB1: For a DB plan (such as a cash balance plan) which calculates the RMD based on an account balance, is the 2020 RMD waived in the same way RMDs are waived for a DC plan?

A: The RMD waiver is not applicable to DB plans, including cash balance plans.

DB2: Does the RMD waiver apply to an IRC §414(k) account within a defined benefit plan (such as a rollover account)?

A: No. IRC §414(k) provides that the account is treated as a defined contribution only for certain purposes. IRC §401(a)(9) is not one of the stated purposes. Therefore, the account is treated as a defined benefit plan.

DB3: I know there has been a proposal about relief for small employer defined contribution plans to waive 2019 contributions not made and suspend 2020 required contributions. Has there been any proposal for DB plans similar to this?

A: Not to forgo the contribution, but as we mentioned on the webcast, the CARES Act provided for a delay of any contributions due in 2020 to be made by January 1, 2021. But take note that there is interest due on the delayed payments.

DB4: If employers have up to 1/1/21 to make their DB contribution, what about the deduction, since most will file by 9/15/20?

A: The Act extended the deadline for making contributions but did not change the deduction timing rules. So, the deduction would have to be taken for 2021.

DB5: Any distribution relief for DB plans per payments to HCEs under Treas. Reg. §1.401(a)(4)-5(b)(3)(ii)?

A: Not at this point in time.



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