

QPA Fiduciary News Alert:

Internal Revenue Service Provides Practical CARES Act Guidance

On Friday, the Internal Revenue Service issued [Notice 2020-50](#), which includes practical guidance to help plan sponsors to navigate the practical aspects of the CARES Act retirement plan provisions. This News Alert focuses on three aspects of the guidance that are likely to apply now. Future communications will expand upon the portions of the Notice that relate to future considerations, such as the process for making loan or Coronavirus-Related Distribution (CRD) repayments.

Q: How does the Notice expand the list of individuals who meet the “qualified individual” definition?

A: The CARES Act’s loan and CRD provisions apply only to an individual who meets the “qualified individual” definition. The statutory definition generally includes: (i) one who is diagnosed with COVID-19; (ii) one whose spouse or dependent is diagnosed with COVID-19; or (iii) one who experiences adverse financial consequences as a result of specific job-related issues experienced by *the individual*. The Notice expands item (iii) to include:

- ❖ the individual, the individual’s spouse, or a member of the individual’s household having a reduction in pay or self-employment income due to COVID-19 or having a job offer rescinded or start date for a job delayed due to COVID-19;
- ❖ the individual’s spouse or a member of the individual’s household experiencing any of the events previously limited to the individual (e.g., being quarantined, being furloughed or laid off, having work hours reduced); or
- ❖ closing or reducing hours of a business owned or operated by the individual’s spouse or member of the individual’s household due to COVID-19.

Q: Is a CRD subject to typical lump sum rules requiring a rollover offer, distribution of a section 402(f) notice, and federal income tax withholding at 20%?

A: No. If a distribution is a CRD, those typical “eligible rollover distribution” rules do not apply. With respect to withholding, the “voluntary withholding” rules apply. This means a CRD is subject to 10% (but not 20%) federal tax withholding unless the participant elects otherwise.

Q: How does this self-certification process work? Can we really rely on the individual’s certification without further investigation?

A: Generally, yes. The CARES Act permits a plan administrator to rely on an individual’s self-certification unless it has “actual knowledge” to the contrary. The Notice confirms that the “actual knowledge” requirement is limited to “situations in which the administrator already possesses sufficiently accurate information to determine the veracity of a certification.” It imposes no obligation to investigate.

The Notice also includes safe harbor certification language. This is helpful not only because it provides greater certainty of what the IRS envisions as acceptable, but also because it confirms that an individual need not specify *which* qualified individual condition applies. That is, an individual may simply certify that he or she meets “at least one of” the conditions listed in the certification.



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