



AUGUST 7, 2020

BENEFITS & COMPENSATION UPDATE

By: Allen J. Erreich and Chase B. Steinlauf

IRS Expands Participants' Ability to Reverse 2020 Required Minimum Distributions August 31, 2020 Deadline

Under the Coronavirus Aid, Relief and Economic Security Act (the "CARES Act"), defined contribution plan and IRA participants are permitted to waive required minimum distributions (RMDs) that would otherwise be required to be made in 2020. The IRS has now expanded participants' ability to reverse RMDs that were already distributed in 2020, thereby allowing these participants to delay the taxation of payment.

RMD Provisions of CARES Act

By way of background, the tax code requires that participants who attain a certain age must begin receiving RMDs no later than the April 1 of the year following the year in which the participant attains that age and then continue to receive RMDs for each calendar year thereafter.¹

The CARES Act waived RMDs that are due in 2020, including ongoing 2020 RMDs that were originally due on December 31, 2020 and first-

year RMDs that were originally due on April 1, 2020. In contrast to the other retirement plan provisions in the CARES Act, this provision is not limited to those participants impacted by the coronavirus.

Based on earlier guidance, participants who already received these RMDs on or after February 1, 2020 had the opportunity to return these amounts to a tax-qualified plan or IRA (as applicable) by July 15, 2020 in order to delay the taxation of payment.

In addition, with respect to IRAs, IRS rules generally provide that within any 12-month period, an IRA owner may make only one rollover contribution from an IRA to either the same IRA or a different IRA maintained by such owner. This restriction would have limited the ability to make a recontribution of IRA RMDs back to the owner's IRA, including in situations where IRA RMD payments were being made monthly.

¹ For purposes of this provision of the CARES Act, the relevant age is 70½. The SECURE Act, which was enacted in late 2019, separately changed the age to 72 for future years.

IRS Relief Expanded to August 31, 2020

The IRS has now announced that any defined contribution plan participants who received RMDs in 2020 – including RMDs paid in January 2020 or later – may recontribute these RMDs to a tax-qualified plan or IRA by an extended deadline of August 31, 2020.

Additionally, 2020 RMDs from IRAs can be repaid to the distributing IRA by the same August 31, 2020 deadline. In addition, these IRA RMD recontributions will not be subject to the general IRS limit of one IRA rollover in any 12-month period. As a result, IRA owners who received monthly RMD payments in 2020 may now recontribute these amounts back to the same IRA by August 31, 2020.

If RMDs from a tax-qualified plan are recontributed to the same or another tax-qualified plan, the following requirements apply:

- These recontributions are permitted only if the qualified plan accepts incoming rollover contributions by participants.
- Once recontributed to a qualified plan, the recontributed amounts would be distributable to participants in the future under the general terms of the plan.
 - Note that while the SECURE Act could allow defined contribution plan sponsors to amend the general terms of their plans to provide a later mandatory commencement age for RMDs (i.e., age 72 rather than age 70½), this change is permitted only with respect to participants who attain age 70½ in 2020 or later.

Action Items

Employers that sponsor tax-qualified retirement plans should consider the following action items:

- Coordinate with recordkeepers and other advisors to address plan procedures, deadlines and participant communications regarding 2020 RMD distributions and recontributions.
- Confirm that their advisors are not reporting as taxable income the RMD payments that are subsequently recontributed to the same plan.
- Coordinate preparation of formal amendments to their retirement plan documents in connection with the CARES Act. The deadline for such amendments is the end of the first plan year beginning on or after January 1, 2022 unless otherwise extended by the IRS.

This update is not intended to provide legal advice with respect to any particular situation, and no legal or business decision should be based solely on its content.

If you have any questions about this update, please contact:

Norman J. Misher	212-903-8733	nmisher@rhtax.com
Allen J. Erreich	212-903-8769	aerreich@rhtax.com
Judy M. Hensley	212-903-8737	jhensley@rhtax.com
Charles C. Shulman	212-903-8687	cshulman@rhtax.com
Chase B. Steinlauf	212-903-8736	csteinlauf@rhtax.com
Ariel B. Woldar	212-903-8718	awoldar@rhtax.com

The **Employee Benefits and Executive Compensation Group of Roberts & Holland LLP** concentrates on a wide variety of employee benefits and executive compensation matters in both the transactional and compliance contexts. We focus on tax, ERISA and other legal considerations relating to all aspects of employee benefit plans, programs and arrangements, including design, administration and compliance of tax-qualified plans and ERISA fiduciary matters for investment funds and plan fiduciaries. We also regularly represent clients in designing, negotiating and drafting equity compensation arrangements and nonqualified deferred compensation plans, as well as executive employment, severance and change-in-control agreements and provide advice on the associated ERISA and tax implications.