

## Employee Benefit Plans Alert

# IRS Announces Rollover Relief for Retirement Account RMDs Waived under CARES Act

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The Internal Revenue Service recently announced that anyone who already took a required minimum distribution (RMD) in 2020 from certain retirement accounts now has the opportunity to roll back those funds into a retirement account following the CARES Act RMD waiver for 2020.

The notice provides transition guidance for payor and plan administrator on improperly characterized RMDs from a defined contribution plan, including 401(k), 403(b) and IRA to satisfy requirements to have direct rollover of eligible rollover distributions. It also provides rollover guidance to allow taxpayers who receive certain distributions to roll them into an eligible retirement plan.

### Back Story

The CARES Act provided for waivers of RMDs in 2020, but some taxpayers already took their RMDs early in the year and the normal 60-day rollover period expired prior to the CARES Act changes. The IRS issued a relief to extend the 60-day rollover deadline to August 31, 2020 for any RMDs received or rolled over in 2020.

### Guidance

Defined contribution plan sponsors may adopt an amendment to implement 401(a)(9)(1) which will provide participants and beneficiaries the choice between receiving and not receiving distributions. This sample amendment has no impact on other distribution provisions and generally follows the design of pre-approved plans that employ a “basic plan document” and an “adoption agreement.” Sponsors of plans without an adoption agreement must modify the format of the amendment to incorporate the desired options in the terms of the amendment.

An employer may choose to either pay out distributions in absence of a participant or beneficiary's election which include 2020 RMDs or suspend such distributions regardless of current plan language. The employer's selection must be included in the adoption agreement as well as the date the plan begins operating in accordance with these terms.

This plan amendment should be adopted no later than the last day of the first plan year beginning on or after January 1, 2022 (January 1, 2024 for governmental plans) and must reflect the operation of the plan beginning with the effective date of the plan amendment. The timely adoption of this amendment must be evidenced by a written document that is signed and dated by the employer. The adoption of the sample plan amendment will not result in the loss of reliance on a favorable opinion, advisory, or determination letter.

The Notice contains nine (9) Q&As on other issues related to the guidance for RMDs including a modification to previously-issued guidance pertaining to the timing of a direct rollover by a spouse beneficiary. A copy of Notice 2020-51 can be [found here](#).

### Staying Current

More than ever it seems plan sponsors and administrators need to stay abreast of the ever-changing landscape for employee benefit plans. This includes updating plan documents and operating their plan in

accordance with the guidance provided by the Internal Revenue Service and the Employee Benefit Security Administration.

## Contact Us

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