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Coronavirus-Related
Relief for Retirement Plans and IRAs
Sections 2202 & 2203 of the CARES Act

Presented by
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Overview of Today's Class

- Coronavirus Related Distributions
- 2020 Modified Plan Loans
- 2020 RMDs and Rollovers
- 2019 IRA Contributions

Rollovers in General

Rollovers in General

- A taxpayer **<u>cannot</u>** rollover:
  - RMDs
  - IRC §72(t) payments
  - Hardship distributions made pursuant to IRC §402(c)(4)
  - Distributions to plan beneficiaries (except for spouse beneficiaries)

Rollovers in General

- A taxpayer **can** rollover:
  - Nontaxable portion of a qualified plan to an IRA
  - IRA owner will need to report this basis on Form 8606
  - Separate recordkeeping required
  - Treated as consisting first of the portion of the distribution that is includible in income

Rollovers in General

- Limit of one IRA to IRA rollover distribution each 12 months.
  - Not a calendar year test
  - Distribution date is the benchmark, not the rollover date
  - Does not apply to direct transfers
  - Effects only IRA to IRA rollovers – Qualified Plans to IRA rollover is not counted
  - Applies separately to each IRA

Bobrow vs. Commissioner, TC Memo, 2014-21.

Rollovers in General

- Qualified Plans must withhold 20% when making a rollover distribution.
  - Does not apply on rollovers from IRAs.
  - Does not apply to direct transfers.
  - Does not apply to rollover distributions of company stock in the plan.

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Rollovers in General

- Rollover must occur within 60 Days of receipt
- The Taxpayer must rollover the same property as received.
  - <u>Exception:</u> If the taxpayer sells the property, he or she can rollover the proceeds.
- Failure = Distribution = Taxable Income

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IRC § 72(t)
EARLY DISTRIBUTION TAX

Early Distribution Tax

- Distributions prior to age 59½
- IRC Section 72(t)
- 10% of the portion of the distribution that's includible in gross income

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Early Distribution Tax - Exceptions

- Death
- Disability
- Medical Expenses
- Early Retirement - *Not applicable to IRAs*
- Divorce - *Not applicable to IRAs*
- Health insurance premiums for unemployed individuals - *IRAs only*

IRC § 72(t)

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Early Distribution Tax – Exceptions

- Higher education expenses – IRAs
- First Time Homebuyers – IRAs - Up to $10,000
- IRS Levy
- Qualified reservist distribution
- Dividends on employer stock in an ESOP
- Certain areas affected by a natural disaster
- Series of substantially equal periodic payments

IRC § 72(t)

CARES ACT – SECTION 2202

Cares Act – Section 2202

- Expanded IRA and Plan distribution options
- Favorable tax treatment for coronavirus-related distributions
- Special rollover rules for coronavirus-related distributions (IRAs & Qualified Plans)
- Increases limit on amount a qualified individual may borrow from an eligible retirement plan

Retirement Plan Distributions

- Coronavirus-Related Distribution
- Exempt from § 72(t) 10% penalty
- $100,000 limit
- A person:
  - diagnosed with SARS-CoV-2 or COVID-19,
  - whose spouse or dependent is diagnosed with SARS-CoV-2 or COVID-19,
  - who experiences adverse financial consequences as a result being quarantined, furloughed, or laid off or having work hours reduced, being unable to work due to lack of child care, closing or reducing hours of a business owned or operated or other factors determined by the Secretary

CARES Act § 2202

IRS Q&A Page:

Treasury and IRS may issue guidance that expands the list of factors taken into account to determine whether an individual is a qualified individual as a result of experiencing adverse financial consequences.

Treasury and IRS have received and are reviewing comments from the public requesting that the list of factors be expanded.

Retirement Plan Distributions

- Distributions must take place in 2020
- Income from the distribution recognized ratably over a three year period
- Amount distributed can be repaid over a three year period
- Exemption from trustee-to-trustee rules and withholding rules
- Administrator of plan can rely on employee's certification that employee satisfies the conditions determining whether distribution is coronavirus-related distribution.
- Individual can treat the distribution as a coronavirus-related distribution for federal income tax purposes only if the individual actually meets the eligibility requirements.

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IRS Q&A Page:

The distributions generally are included in income ratably over a three-year period, starting with the year in which you receive your distribution.

Example: If you receive a $9,000 coronavirus-related distribution in 2020, you would report $3,000 in income on your federal income tax return for each of 2020, 2021, and 2022.

Taxpayer has option of including the entire distribution in income for the year of the distribution.

IRS Q&A Page:
May I repay a coronavirus-related distribution?

- Yes. You can repay all or part of the distribution if you do so within 3 years after the distribution was received
- Repayment will be treated as though made in a direct trustee-to-trustee transfer so you won't owe federal income tax on the distribution
- Example
  - Facts
    - Take a coronavirus-related distribution in 2020
    - Choose to include the distribution amount in income over a 3-year period (2020, 2021, 2022)
    - Repay full amount in 2022
  - Tax Result
    - File an amended returns for 2020 and 2021
    - Get a refund for those years
    - No income recognized for 2022
  - See sections 4.D, 4.E, and 4.F of Notice 2005-92 for additional examples.

IRS Q&A Page:
How do qualified individuals report coronavirus-related distributions?

- You can designate any eligible distribution as a coronavirus-related distribution as long as the total amount isn't more than $100,000.
- A qualified individual can treat a distribution that meets the requirements to be a coronavirus-related distribution regardless of whether the eligible retirement plan treats the distribution as a coronavirus-related distribution.
- The taxable portion of the distribution is included in income ratably over a 3-year period – 2020, 2021, and 2022 – unless you elect to include the entire amount in income in 2020.
- Form 8915E is used to report repayment of a coronavirus distribution and to determine the amount of any coronavirus-related distribution includible in income for a year
- This is true regardless of whether you have to file a federal income tax return

IRS Q&A Page:

How do plans and IRAs report coronavirus-related distributions?

- The payment of a coronavirus-related distribution to a qualified individual must be reported by the eligible retirement plan on Form 1099-R, Distributions from Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.
- This reporting is required even if the qualified individual repays the coronavirus-related distribution in the same year.
- The IRS expects to provide more information on how to report these distributions later this year.

Coronavirus-Related Distribution

- Roth IRA rollover
- Three-year income spread
- Roth Conversions:
  - Advantages
    - Tax-free qualified distributions
    - No lifetime RMDs
    - Offset deductions/credits
    - Payment of income tax versus estate tax
  - Disadvantages
    - Payment of taxes
    - Tax brackets

Introduction to ROTH IRAs

Roth IRAs - Conversions

- No dollar limit
- Income tax on conversion
- Advantages
  - Tax free qualified distributions
  - No lifetime RMDs
  - Offset deductions/credits
  - Payment of income tax versus estate tax
- Considerations
  - Present versus future income tax rates
  - Funds used to pay tax on conversion
  - Time horizon
  - Low value of IRA
- Disadvantages
  - Payment of taxes
  - Tax brackets

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Retirement Plan Loans

- Applies to loans made within 180-days of enactment
- Limit increased from $50,000 to $100,000
- Limit increased from 50% of the balance to 100% of the balance
- Outstanding loan repayment delayed due between enactment and year-end delayed one year

What plan loan relief is provided under Section 2202 of the CARES Act?

- Delayed repayment
  - If a loan is outstanding on or after March 27, 2020, and
  - any repayment on the loan is due from March 27, 2020, to December 31, 2020,
  - Then, due date can be delayed under the plan for up to one year.

  Any payments after the suspension period will be adjusted to reflect the delay and any interest accruing during the delay.

- Loan limit may be increased
  - For plan loans made to a qualified individual from March 27, 2020, to September 22, 2020, the limit may be increased up to the lesser of:

    (1) $100,000 (minus outstanding plan loans of the individual), or

    (2) the individual's vested benefit under the plan.

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IRS Q&A

Is it optional for employers to adopt the distribution and loan rules of section 2202 of the CARES Act?

- Yes. An employer can choose whether, and to what extent, to amend its plan to provide for coronavirus-related distributions and/or loans that satisfy the provisions of section 2202

- Thus, for example, an employer can choose to provide for coronavirus-related distributions but choose not to change its plan loan provisions or loan repayment schedules.

- Even if an employer doesn't treat a distribution as coronavirus-related, a qualified individual can treat it as such on the individual's federal income tax return.

IRS Q&A:

Does section 2202 of the CARES Act provide additional distribution rights to participants or otherwise change the rules applicable to plan distributions?

- A coronavirus-related distribution is treated as meeting the distribution restrictions for a section 401(k) plan, section 403(b) plan, or governmental section 457(b) plan.
- For example, a section 401(k) plan may permit a coronavirus-related distribution even if it would occur before an otherwise permitted distribution event (e.g., disability, or attainment of age 59½).
- However, the CARES Act doesn't otherwise change the limits on when plan distributions can be made from employer-sponsored retirement plans.
- For example, a pension plan (e.g., a money purchase pension plan) isn't permitted to make a distribution before an otherwise permitted distribution event merely because the distribution would qualify as a coronavirus-related distribution.
- Further, a pension plan isn't permitted to make a distribution under a distribution form that isn't a qualified joint and survivor annuity without spousal consent merely because the distribution could be treated as a coronavirus-related distribution.

IRS Q&A:

Is an eligible retirement plan required to accept repayment of a participant's coronavirus-related distribution?

- In general, Treasury and the SBA anticipate that eligible retirement plans will accept repayments of coronavirus-related distributions and treat them as rollover contributions.
- However, eligible retirement plans generally aren't required to accept rollover contributions.
- For example, if a plan does not accept any rollover contributions, the plan isn't required to change its terms or procedures to accept repayments.

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Section 2202 Guidance

- Treasury and IRS formulating guidance on section 2202 and anticipate releasing that guidance in the near future.

- Notice 2005-92 (November 30, 2005):

  – Guidance on tax-favored treatment of distributions and plan loans under sections 101 and 103 of the Katrina Emergency Tax Relief Act of 2005 (KETRA) as those provisions applied to victims of Hurricane Katrina.

  – Treasury and IRS anticipate that CARES Act guidance will apply the same principles to the extent the provisions of section 2202 of the CARES Act are substantially similar to the provisions addressed in that notice.

CARES ACT – SECTION 2203

Required Minimum Distributions

- Planning Objective: Minimize the amount of distributions that are required annually to the fullest extent possible
- IRC Section 401(a)(9)
  - all stock bonus, pension, and profit-sharing plans qualified under section 401(a)
  - 403(a) plans
  - 403(b) plans
  - Individual Retirement Accounts
  - SIMPLE and SEP IRAs
- Required Beginning Date – Date RMDs required to start

INTRODUCTION TO IRAS

Required Beginning Date

Traditional IRAs (including SEPs and SIMPLE IRAs)	April 1 of the year following the year in which the owner reaches age 72
Qualified plan participant who owns **no more** than a 5 percent interest in the company sponsoring the plan Includes 403(b) plans	April 1 of the year following the later of: (1) the calendar year in which the participant turns 72 **OR** (2) the participant's retirement from the company.
Qualified plan participant who owns **more than** a 5 percent interest in the company. (Or if required by plan contract terms)	April 1 of the year following the year in which the owner reaches age 72
Roth IRAs	**No** lifetime RMDs = No lifetime Required Beginning Date

CARES Act § 2203

- Temporary Waiver of RMDs
  - RMDs are waived 2020
  - Specified defined contribution plans, deferred compensation plans and IRAs.
  - Defined benefit plans not given waiver.
  - Application to inherited IRAs.

Temporary Waiver of RMDs

- For any distribution which is required to be made in calendar year 2020 by reason of:
  - (1) a required beginning date occurring in 2020, and
  - (2) such distribution not having been made before January 1, 2020.

- Accordingly, if a person turned age 70.5 in 2019 but was waiting until April 1, 2020 to take the 2019 RMD, they are no longer required to take the RMD in 2020.

Temporary Waiver of RMDs

- The calculation as to when a person's required beginning date is measured is not affected by this one-year waiver.

- If a taxpayer is taking required minimum distributions under the five-year rule, the five-year rule is determined without regard to 2020. (Turns five-year rule into six-year rule.)

- If all or any portion of a distribution during 2020 is treated as an eligible rollover distribution but would not be so treated if the minimum distribution requirements had applied during 2020, such distribution is not treated as an eligible rollover distribution for purposes of the direct rollover requirement, for the notice and written explanation of the direct rollover requirement, or for the mandatory 20% withholding requirement to the extent the distribution would have been a 2020 RMD without this waiver.

IRA CONTRIBUTIONS

Contributions – Deadline

- Deemed to have made a contribution to an IRA for the preceding year if the contribution is made on account of that year and is made by the due date for filing the return for that year (not including extensions).
- Example: Taxpayer could make a contribution to a IRA for tax year 2020 by April 15, 2021.
- Informing custodian.
- Contribution shortfall may not be carried over to future tax years.

Deadline for 2019 Contributions

- IRS FAQ website page for Notice 2020-18:

- Because due date for filing 2019 Federal income tax returns has been postponed to July 15, the deadline for making contributions to an IRA for 2019 is also extended to July 15, 2020.

Contributions

- Tax deductibility depends on:
  - (1) type of IRA,
  - (2) age of taxpayer,
  - (3) whether the taxpayer or taxpayer's spouse participates in an employer-sponsored retirement plan, and
  - (4) taxpayer's income

- Cash only – Exception: conversion or rollover.

Contributions – Limitations

- Can't exceed the lesser of (1) "the deductible amount", or (2) taxable compensation for the year. IRC Section 219(b)(1)(A).
- 2020 deductible amount: $6,000
- Age 50 or over taxpayers: $1,000 catch-up amount
- Examples:
  1. Taxpayer has income of $50,000. He can only contribute $6,000 to his IRA.
  2. Taxpayer is unemployed and had no compensation includible in his gross income. He cannot make a contribution to his IRA.
  3. Taxpayer has income of $2,500. He can only contribute $2,500 to his IRA.

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Contributions – Limitations

- "Compensation" (Treas. Reg. 1.219-1(c))
  - Wages, salaries, professional fees, or other amounts derived from or received for personal service actually rendered
  - Taxable alimony and separate maintenance payments
  - Nontaxable combat pay

- Compensation does not include:
  - Earnings and profits from property
  - Pension or annuity income
  - Deferred compensation received
  - Income from a partnership for which the taxpayer does not provide services that are a material income-producing factor
  - Conservation Reserve Program
  - Any amounts (other than combat pay) excluded from income

- Contributions made to SEP IRA and SIMPLE IRA ignored for purposes of Traditional and Roth IRA contribution limits

Contributions – Spousal IRA

- Kay Bailey Hutchison Spousal IRA
- Spouse that has compensation allowed to make IRA contribution on behalf of non-working spouse.
- Eligibility requirements:
  - (1) taxpayer must be married,
  - (2) taxpayer must be filing joint, and
  - (3) non-working spouse must be under 70 1/2 in year of contribution. There are no such age restrictions on a Roth IRA contribution for a non-working spouse.
-
- Total contributions to both spouses' IRAs can't exceed their joint taxable income or the annual contribution limit on IRAs times two, whichever is less.
- Example: Wife is a full-time student with no compensation but is married during 2020 and files a joint tax return. Husband has taxable compensation of $30,000. If he and his wife file a joint return, <u>each</u> can contribute $6,000 to a traditional IRA.

Contributions – Active Participant

- Deduction limited if:
  - taxpayer or taxpayer's spouse is covered by a retirement plan at work, and
  - income exceeds certain levels.
- Taxpayer considered an active participant if he or she participates in any of the following types of plans for the year:
  - qualified plan
  - 403(a) annuity plan
  - plan established for its employees by the United States, by a State or political subdivision
  - 403(b) annuity contract
  - SEP IRA
  - SIMPLE IRA

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Contributions – Active Participants

- Deductible amount reduced if the taxpayer’s (and the spouse's, if filing joint) modified adjusted gross income exceeds the applicable dollar amount.
- Dollar limit annually adjusted for inflation.
- See Publication 590-A.

Nondeductible Contribution

- A taxpayer can elect to make nondeductible contributions to a traditional IRA.
- Generally make by those who don't qualify for a Roth IRA contribution or a traditional IRA deductible contribution.
- Non-deductible contributions treated as basis.
- Generally better to make a contribution to a Roth IRA.
- Taxpayer keeps track of nondeductible contributions.
- IRS Form 8606
- Filed for each year IRA owner made non-deductible contributions.

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Contributions – Roth IRA Income Limitations

- Income and filing status affects how much taxpayers can contribute to a Roth IRA.
- Allowable contribution amount reduced if modified adjusted gross income exceeds applicable dollar amount.
- Income limits annually adjusted for inflation.
- See worksheet in Publication 590-A.

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Conclusion

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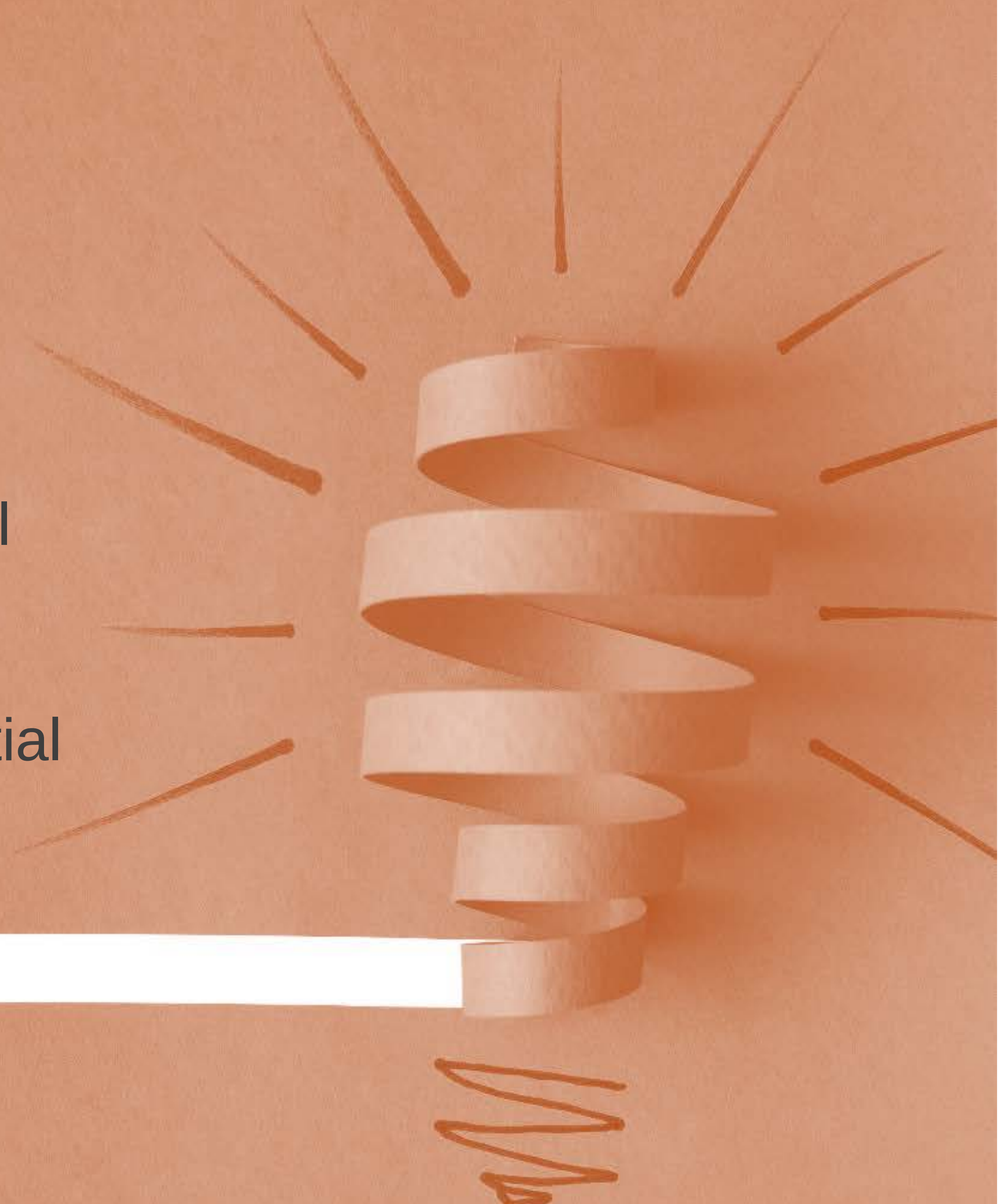

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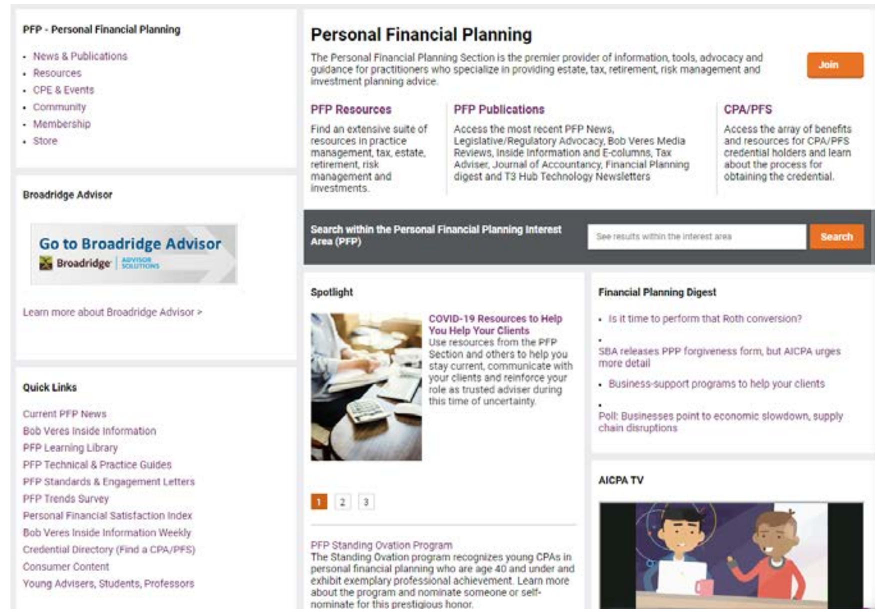

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