

Important Update



Multiple Employer Plan

Strength in Numbers



IRS Posts CARES Act FAQs for Employer-Sponsored Plans

There is a lot of information to digest within these FAQs. As a best practice all employers should be speaking with their plan administrators to ensure their plan is communicating to participants as required by law and discussing what these new situations mean for their plan. There is no one solution, it is a case by case situation.

NEFI is here to help and support members who have questions or would like advice about their employer sponsored plan. We have a host of resources available and a team of retirement planning experts ready to assist membership. [Click Here for those resources.](#)



IRS FAQ for CARES Act Section 2202

The IRS has posted answers to common questions surrounding section 2202 of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act). The CARES Act was enacted on March 27, 2020; it provides special distribution options and rollover rules and expands permissible loans from certain retirement plans and IRAs.

Below we highlight 14 questions we believe are most likely to impact NEFI membership, their employees, and employee spouses.



What are the special rules for retirement plans and IRAs in section 2202 of the CARES Act?

Section 2202 provides expanded distribution options and favorable tax treatment for up to \$100,000 of coronavirus-related distributions from eligible retirement plans to qualified individuals, as well as special rollover rules with respect to such distributions.

It also increases the limit of the amount a qualified individual may borrow from an eligible retirement plan (not including an IRA) and permits plan sponsors to provide qualified individuals up to an additional year to repay their loans.

Does the IRS intend to issue guidance on section 2202 of the CARES Act?

Both the Treasury Department and the IRS are formulating guidance on section 2202 of the CARES Act and anticipate releasing that guidance soon. Congress was expected to pass what has been called CARES Act 2 in mid-May. All reports indicate Congress is still working out the details. I expect that we will not see guidance released until aspects of CARES Act 2 are published as they will likely be closely related.

Until we receive CARES Act specific guidance, The Treasury Department and IRS have stated that [IRS Notice 2005-92](#), issued in November of 2005, is going to be the guiding principle for the CARES Act.

IRS Notice 2005-92, provided guidance on the tax-favored treatment of distribution and plan loans under the Katrina Emergency Tax Relief Act (KETRA) as those provisions applied to victims of Hurricane Katrina.

Am I a qualified individual for purposes of section 2202 of the CARES Act?

You are a qualified individual if:

- You are diagnosed with SARS-CoV-2 or with coronavirus disease 2019 (COVID-19) by a test approved by the CDC.
- Your spouse or dependent was diagnosed with SARS-CoV-2 or with coronavirus disease 2019 (COVID-19) by a test approved by the CDC.
- You experience adverse financial consequences from being quarantined, furloughed, or laid off, or having work hours reduced due to SARS-CoV-2 or COVID-19.
- You experience adverse financial consequences as a result of being unable to work due to lack of child care due to SARS-CoV-2 or COVID-19.
- You experience adverse financial consequences resulting from closing or reducing hours of a business that you own or operate due to SARS-CoV-2 or COVID-19.

Under section 2202 of the CARES Act, the Treasury Department and the IRS may issue guidance that expands the list of factors being taken into account to determine whether an individual is a qualified individual as a result of experiencing adverse financial consequences.





At the time of this writing, we advise people to keep in mind the “adverse financial consequences” provision refers to the account owner's circumstances, not the spouse's. So if your spouse is out of work creating financial strain on the household. You are ineligible for a coronavirus-related distribution unless your spouse has been diagnosed with the virus.

What is a coronavirus-related distribution?

A coronavirus-related distribution is a distribution that is made from an eligible retirement plan to a qualified individual from January 1, 2020, to December 30, 2020, up to an aggregate limit of \$100,000 from all plans and IRAs.

Do I have to pay the 10% additional tax on a coronavirus-related distribution from my retirement plan or IRA?

No, the additional 10% tax on early distributions does not apply to any coronavirus-related distribution. Nor does the 20% Federal tax withholding.

When do I have to pay taxes on coronavirus-related distributions?

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

For 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 year of 2020, 2021, and 2022. However, you can include the entire distribution in your income for the year of the distribution, in this example, 2020, if you prefer.

May I repay a coronavirus-related distribution?

Yes, you may repay all or part of the amount of a coronavirus-related distribution to an eligible retirement plan, provided that you complete the repayment within three years of receiving the distribution.

If you repay the coronavirus-related distribution, the distribution will be treated as though it were repaid in a direct trustee-to-trustee transfer so that you do not owe federal income tax on the distribution.

Sticking with the previous example of a \$9,000 distribution being received in 2020 and taxed as income over 2020, 2021, and 2022. If you chose to repay the full amount in 2022, you may file amended federal income tax returns for 2020 and 2021 to claim a refund of the tax because of the amount of the distribution you included in your income. In this case, you would not be required to include any income from the distribution on your 2022 federal tax return.

See sections 4.D, 4.E, and 4.F of [Notice 2005-92](#) for additional examples.

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

Section 2202 of the CARES Act permits an additional year for repayment of loans from eligible retirement plans (not including IRAs) and relaxes limits on loans.



- Certain loan repayment may be delayed for one year: If a loan is outstanding on or after March 27, 2020, and any repayment of the loan is due from March 27, 2020, to December 31, 2020, that due date may 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. See section 5.B of Notice 2005-92.
- The loan limit may be increased: The CARES Act also permits employers to increase the maximum loan amount available to qualified individuals. 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. See Section 5.A of Notice 2005-92.

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

It is optional for employers to adopt the distribution and loan rules of section 2202 of the CARES Act. An employer is permitted to choose whether, and to what extent, to amend its plan to provide for coronavirus-related distributions or loans that satisfy the provisions of section 2202 of the CARES Act.

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

Even if an employer does not treat a distribution as coronavirus-related, a qualified individual may treat a distribution that meets the coronavirus-related requirements on the individual's federal income tax return. [See section 4.A of Notice 2005-92.](#)



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

Under section 2202 of the CARES Act, a coronavirus-related distribution is treated as meeting the distribution restrictions for a section 401(k) plan.

For example, under section 2202 of the CARES Act, a section 401(k) plan may permit a coronavirus-related distribution, even if it would occur before an otherwise permitted distributable event (such as separation of service from employment, disability, or reaching age 59 1/2).

However, the CARES Act does not otherwise change the limits on when plan distributions are permitted to be made from employer-sponsored retirement plans. For example, a pension plan (such as a money purchase plan) is not allowed to make a distribution before an otherwise permitted distributable event merely because the distribution, if made, would qualify as a coronavirus-related distribution.

Further, a pension plan is not permitted to make a distribution under a distribution form that is not a qualified joint and survivor annuity without spousal consent because of the distribution, if made, could be treated as a coronavirus-related distribution. [See section 2.A of Notice 2005-92.](#)

May an administrator rely on an individual's certification that the individual is eligible to receive a coronavirus-related distribution?

The administrator of an eligible retirement plan may rely on an individual's certification that the individual satisfies the conditions to be a qualified individual in determining whether a distribution is a coronavirus-related distribution unless the administrator has actual knowledge to the contrary.



Although an administrator may rely on an individual's certification in making and reporting a distribution, the individual is entitled to treat the distribution as a coronavirus-related distribution for the purpose of the individual's federal income tax return only if the individual meets the eligibility requirements.

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

It is anticipated that eligible retirement plans will accept repayments of coronavirus-related distributions, which would be treated as rollover contributions. However, eligible retirement plans generally are not required to accept rollover contributions.

For example, if a plan does not accept any rollover contributions, the plan is not required to change its terms or procedures to accept repayments.



How do qualified individuals report coronavirus-related distributions?

If you are a qualified individual, you may designate any eligible distribution as a coronavirus-related distribution as long as the total amount that you select as coronavirus-related distributions is not more than \$100,000.

As noted earlier, a qualified individual may treat a distribution that meets the requirements to be a coronavirus-related distribution as such a distribution, regardless of whether the eligible retirement plan treats the distribution as a coronavirus-related distribution. A coronavirus-related distribution should be reported on your federal income tax return for 2020. You must include the taxable portion of the distribution in income ratably over the three years – 2020, 2021, and 2022 – unless you elect to include the entire amount in income in 2020.

Whether or not you are required to file a federal income tax return, you would use Form 8915-E to report any repayment of a coronavirus-related distribution and to determine the amount of any coronavirus-related distribution includible in income for a year. See section 4 of [Notice 2005-92](#).

How do plans and IRAs report coronavirus-related distributions?

The eligible retirement plan must report the payment of a coronavirus-related distribution to a qualified individual 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. See section 3 of [Notice 2005-92](#).

