



# Federal Legislative & Regulatory Report

## March 2020

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### President approves \$2T COVID-19 response package, eases access to retirement funds

On March 27, the President signed [HR 748](#), the Coronavirus Aid, Relief, and Economic Security (CARES) Act. The bill provides billions of dollars to support small businesses, distressed industries and the increasingly overburdened health care system. The bill also provides relief for individuals and workers through direct cash assistance and expanded unemployment benefits. Importantly, the CARES Act relaxes retirement plan loan, withdrawal and [RMD provisions](#).

For individuals who are (1) diagnosed with COVID-19; (2) caring for those with COVID-19; or (3) experiencing “adverse financial consequences of COVID-19,” the bill:

- Broadly expands the use of allowable in-service distributions, even if such amounts are not usually distributable under the tax code
- Waives the 10% early distribution penalty, allowing those under 59½ to withdraw funds more easily
- Exempts distributions from the typical 20% withholding tax
- Allows savers to recontribute funds within three years with no adverse consequences
- Permits but does not require employers to make available distributions described above and accept any repayments
- Increases the maximum loan limit for qualified individuals to the lesser of (1) \$100,000 (from \$50,000); or (2) the greater of \$10,000 or 100% (from 50%) of the present value of the participant’s vested benefit

- Allows savers to self-certify that they are eligible to take advantage of these new rules

Additionally, for 2020, required minimum distributions (RMDs) are waived for all types of deferred compensation plans (including 401(k), 403(b) and governmental 457(b) plans) and IRAs. This also applies to RMDs due in 2020 but attributable to 2019, which is a change from prior versions.

## **IRS extends deadlines for 403(b) plans and preapproved DB plans**

On March 27, the IRS [extended deadlines](#) for 403(b) plans and preapproved defined benefit plans. For 403(b) plans, “[t]he IRS is extending the last day of the initial remedial amendment period for Section 403(b) plans from March 31, 2020, to June 30, 2020. Plan sponsors now have until June 30, 2020, to update their preapproved and individually designed 403(b) plan documents.”

For preapproved defined benefit plans, “[t]he IRS is extending the following deadlines to July 31, 2020:

- (1) The April 30, 2020, deadline for employers to adopt a preapproved defined benefit plan and to submit a determination letter application (if eligible) under the second six-year remedial amendment cycle, and
- (2) The April 30, 2020, end of the second six-year remedial amendment cycle for preapproved defined benefit plans, as set forth in [Announcement 2018-05](#).”

## **IRS releases final instructions for Form 5498 and Form 1099-R**

The IRS released a final version of the 2020 Instructions for Forms 1099-R and 5498, which make some changes to the draft instructions published in January. In particular, the final instructions add a new “indicator code” for reporting a repayment of a qualified birth or adoption distribution on Form 5498 for the 2020 tax year.

No change was made to how distributions of such amounts are reported on Form 1099-R; there is no special distribution code that must be used to report qualified birth or adoption distributions.

## **IRS clarifies that IRA contributions for 2019 can be made until July 15, 2020**

The IRS previously issued guidance in [Notice 2020-18](#) that postponed until July 15 the due date for federal income tax returns and payments that otherwise would be due on April 15. The IRA contribution deadline is tied to the income tax return deadline (without regard to extensions) by Code Section 219(f)(3), so it appeared that the notice also extended the IRA deadline until July 15. [Q&A-17](#) in the new IRS posting confirms this.

## New Mexico enacts state-sponsored retirement plan

New Mexico House Bill 44, known as the [New Mexico Work and Save Program](#), provides a voluntary savings option through automatic payroll deductions for private-sector employees. It allows a participating employer to automatically enroll its employees but allows employees to opt out of enrollment themselves.

The bill also develops the New Mexico Retirement Plan Marketplace to connect employers and employees with retirement savings plans.

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## References and source material used in this publication

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H.R. 748, the Coronavirus Aid, Relief, and Economic Security (CARES) Act  
<https://www.congress.gov/116/bills/hr748/BILLS-116hr748enr.pdf>

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Deadlines Extended for 403(b) Plans and Preapproved Defined Benefit Plans  
<https://www.irs.gov/retirement-plans/deadlines-extended-for-403b-plans-and-preapproved-defined-benefit-plans>

IRS Announcement 2018-05  
<https://www.irs.gov/pub/irs-drop/a-18-05.pdf>

IRS Notice 2020-18  
<https://www.irs.gov/pub/irs-drop/n-20-18.pdf>

IRS Filing and Payment Deadlines Questions and Answers  
<https://www.irs.gov/newsroom/filing-and-payment-deadlines-questions-and-answers>

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New Mexico H.B. 44, New Mexico Work and Save Program  
<https://www.nmlegis.gov/Sessions/20%20Regular/bills/house/HB0044.html>

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## Keeping watch

You can find the most recent information on issues affecting governmental defined contribution plans, plan sponsors and plan participants on the Employer page of our plan website, [NRSforu.com/plansponsor](https://NRSforu.com/plansponsor).

## About this report

**BOB BEASLEY**, CRC, Communications Consultant, edits this report. Beasley brings more than 30 years of financial services communications experience to your plan. He has contributed to past editions of the *Governmental 457(b) Guidebook*, edits countless newsletters and plan sponsor communications, and in 2001 authored “What you should know about the Economic Growth and Tax Relief Reconciliation Act of 2001.” He often voices Nationwide’s online presentations.

Beasley has served on the Education and Communication Committee for the Plan Sponsor Council of America and as a member of the National Association of Government Defined Contribution Administrators.

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