



Federal Legislative & Regulatory Report

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EBSA issues COVID-19 relief

On April 28, the Department of Labor (DOL) Employee Benefit Security Administration (EBSA) **issued** deadline relief and other guidance to help employee benefit plans, plan participants and beneficiaries, employers and other plan sponsors, plan fiduciaries, and other service providers impacted by the coronavirus outbreak. The relief package includes:

- EBSA **Disaster Relief Notice 2020-01**, which extends the time for plan officials to furnish benefit statements, annual funding notices, and other notices and disclosures required by ERISA so long as they make a good faith effort to furnish the documents as soon as administratively practicable
- A DOL-issued set of **frequently asked questions** on health benefit and retirement benefit issues to help employee benefit plan participants and beneficiaries, plan sponsors, and employers impacted by the coronavirus outbreak understand their rights and responsibilities under ERISA
- The IRS/DOL **final regulation**, extending certain time frames under ERISA for group health plans, disability and other welfare plans, pension plans, and participants and beneficiaries of these plans during the COVID-19 national emergency

The Coronavirus Aid, Relief, and Economic Security (CARES) Act provided additional leeway for the DOL to extend deadlines and add flexibility during the COVID-19 national emergency. Among other provisions, the EBSA notice clarifies that increased loan limits under the CARES Act will not be treated as violating the DOL's adequate security rules.

IRS publishes guidance for CARES Act loan/withdrawal provisions

On May 4, the IRS posted a set of [FAQs](#) to provide preliminary guidance on the retirement distribution and loan relief included in Section 2202 of the Coronavirus Aid, Relief, and Economic Security (CARES) Act. Notable provisions include:

- IRS generally interprets CARES Act relief consistent with [Notice 2005-92](#), which provided guidance on similar distribution and loan relief passed by Congress in response to Hurricane Katrina.
- The IRS is considering expanding criteria for qualified individuals. Q&A-3 indicates that the Treasury Department and the IRS are reviewing public comments requesting an expansion of the factors that can make a person a “qualified individual” as a result of experiencing “adverse financial consequences.” The CARES Act authorizes the Treasury Department and the IRS to add to the list of circumstances described in the statute.
- The IRS confirmed distribution and loan relief is optional. Q&A-9 confirms that it is optional for employers to adopt the CARES Act’s distribution and loan relief, including the suspension of loan repayments. Q&A-9 further explains that an employer can offer some, but not all, of the forms of distribution and loan relief.

House passes COVID-19 relief package

On May 15, the House passed H.R. 6800, the Health and Economic Recovery Omnibus Emergency Solutions (HEROES) Act. The [text of the bill](#) is 1,854 pages; however, a section-by-section document [summarizes the bill](#) in 90 pages. HEROES will not advance in the Senate and will not become law. Instead, it is a \$3 trillion omnibus package of ideas Democrats will prioritize as Congress negotiates the next round of COVID-19 relief. Among the provisions are additional individual stimulus payments, expanded sick leave, additional relief for businesses, and funding for states/localities, among many others. Other notable provisions include:

- RMD – A waiver of 2019 required minimum distributions (RMD) for defined contribution plans and IRAs (CARES Act did this for 2020 RMDs)
- RMD – Expansion of the 2020 RMD relief by providing that the RMDs made for 2019 and 2020 would be permitted to be rolled back to a plan or IRA without regard to the 60-day requirement if the rollover is made by November 30, 2020
- CARES Act Loan/Withdrawal – Clarification of retirement plan loan provision within the CARES Act by allowing retirement plans to rely on an employee’s certification that the employee qualifies to receive a coronavirus-related plan loan
- CARES Act Early Distribution/Loan – Clarification that the CARES Act provision related to early distribution and loan relief for retirement plans also applies to the money purchase pension plans
- SECURE Act – A permanent provision for part of the SECURE Act (Code Section 139B, enacted December 20, 2020), which would exclude qualified State or local tax benefits and qualified reimbursement payments provided to members of qualified volunteer emergency response organizations and increases the exclusion for qualified

reimbursement payments to \$50 for each month during which a volunteer performs services

DOL issues final e-delivery regulation

On May 21, the Department of Labor announced publication of a [final rule](#) to expand the ability of private sector employers to communicate retirement plan information online or by email. The rule allows employers to deliver disclosures to plan participants primarily electronically, which will reduce printing, mailing and related plan costs by an estimated \$3.2 billion over the next decade.

The rule will also make disclosures more readily accessible and useful for participants but preserve the rights of those who prefer paper disclosures. The final regulation will be published in the Federal Register on May 27, 2020.

The DOL also issued a [press release](#) and [fact sheet](#) in connection with the issuance of the final regulation.

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References and source material used in this publication

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U.S. Department of Labor issues COVID-19 relief and guidance for employee benefit plans
[dol.gov/newsroom/releases/ebsa/ebsa20200428](https://www.dol.gov/newsroom/releases/ebsa/ebsa20200428)

EBSA Disaster Relief Notice 2020-01
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COVID-19 FAQs for Participants and Beneficiaries
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Coronavirus-related relief for retirement plans and IRAs questions and answers
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Hurricane Katrina Relief under sections 101 and 103 of the Katrina Emergency Tax Relief Act of 2005
[irs.gov/pub/irs-drop/n-05-92.pdf](https://www.irs.gov/pub/irs-drop/n-05-92.pdf)

Text of H.R. 6800, the HEROES Act
[congress.gov/116/bills/hr6800/BILLS-116hr6800eh.pdf](https://www.congress.gov/116/bills/hr6800/BILLS-116hr6800eh.pdf)

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[appropriations.house.gov/sites/democrats.appropriations.house.gov/files/documents/Heroes%20Act%20Summary.pdf](https://www.appropriations.house.gov/sites/democrats.appropriations.house.gov/files/documents/Heroes%20Act%20Summary.pdf)

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Default electronic disclosure by employee pension benefit plans under ERISA (Federal Register)
[govinfo.gov/content/pkg/FR-2020-05-27/pdf/2020-10951.pdf](https://www.govinfo.gov/content/pkg/FR-2020-05-27/pdf/2020-10951.pdf)

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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.

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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