



## E-ALERT

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### ALERT: RETIREMENT PLAN DEADLINES EXTENDED

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On April 10, 2020, the Internal Revenue Service (IRS) issued [Notice 2020-23](#). The Notice extends certain retirement plan payment and filing obligations that have deadlines on or after April 1, 2020 and before July 15, 2020. The retirement plan deadlines now extended to July 15, 2020 include the following:

- **Loans:** Participant plan loan repayments due during the period beginning on April 1, 2020 and ending on July 14, 2020. *Unlike the 1-year loan repayment extension under the CARES Act, this extension is available to all participants/borrowers and not just those affected by the coronavirus pandemic.*
- **Rollover Distributions:** The 60-day window to roll over an eligible rollover distribution received from an eligible retirement plan, so that the participant will have until the later of (i) 60 days after receipt of the distribution or (ii) July 15, 2020 to complete the rollover. *This extension provides participants who already received 2020 required minimum distributions (RMDs) that have been waived pursuant to the CARES Act additional time to roll over those RMDs to an eligible retirement plan that accepts rollover contributions (e.g., an IRA or the original distributing plan).*
- **Corrective Distributions for Certain Failures:**
- The April 15, 2020 deadline for a plan to distribute employee deferrals in excess of the Internal Revenue Code Section 402(g) limit (plus associated earnings) [\$19,000 or \$25,000 {for those age 50 or over} in calendar year 2019]. *This provides participants with additional time to inform the plan administrator that they deferred amounts in excess of the 402(g) limit, and thereby avoid the double taxation on the excess that otherwise would result from failing to meet the April 15<sup>th</sup> deadline.*
- The 2½ month after the close of the plan year deadline to distribute excess contributions for excessive salary deferrals by highly compensated employees (HCEs) in 401(k) plans (ADP testing) and excess aggregate matching contributions allocated to HCEs (ACP testing), and related earnings on both, to avoid the 10% excise tax imposed on such excess amounts.
- The end of the following plan year deadline to correct ADP and ACP test failures by distributing excess contributions and excess aggregate contributions to HCEs. This provision only applies to non-calendar year plans with plan years that end on or after April 1, 2020 and before July 15, 2020.
- The deadline to distribute certain non-deductible contributions to a qualified employer plan in order to avoid the imposition of the 10% excise tax.
- The deadline for making distributions to satisfy the substantially equal periodic payment exception to the 10% excise tax on early distributions from qualified plans.

- **EACAs:** The 90-day deadline to elect a permissible withdrawal from an eligible automatic contribution arrangement (EACA) after the date of the employee’s first elective contribution under the EACA.
- **5500s:** The Form 5500 series and the Form 8955-SSA filing deadline. *This only applies to non–calendar year plans with Form 5500 and Form 8955-SSA deadlines that fall on and after April 1, 2020 and prior to July 15, 2020.*
- **Plan Restatements:** The deadline for restating a retirement plan by the close of its remedial amendment period. Earlier guidance extended defined benefit plan deadlines to July 31, 2020. *Consequently, this provision applies only to 403(b) plan deadlines that were previously extended to June 30, 2020.*
- **EPCRS Self-Correction Program:** The correction period for self-correction of certain operational failures under IRS’s EPCRS program (generally the last day of the second plan year following the plan year in which the failure occurred). *This deadline applies to the correction of significant operational errors and, effective April 19, 2019, eligible plan document failures for non–calendar year plans with plan years that end on or after April 1, 2020 and before July 15, 2020.*

In addition, [Notice 2020-01](#) grants plan sponsors and service providers extra time to provide required notices and disclosures — including the annual funding notice for defined benefit plans, which would have been due April 29 for calendar-year plans — and to complete certain other plan-related actions. The notice also provides relief from ERISA’s plan loan requirements for loans issued or suspended under the Coronavirus Aid, Relief, and Economic Security (CARES) Act ([Pub. L. No. 116-136](#)).

If you have further questions or require more information regarding this update, please contact [Matthew I. Whitehorn, Esq.](#) or [Stephanie S. Vogel, Esq.](#)