
# CARES Act provisions offer relief for families who need to access retirement funds due to COVID-19 pandemic

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The CARES Act is on its way to President Trump for his signature. Section 2103 offers several provisions allowing greater tax-favored access to funds held in qualified retirement plans. Specifically, the additional 10 percent penalty for early withdrawals (prior to age 59 ½) from qualified plans is removed for a period of time, and plan loan limits are increased while repayment obligations are slowed.

**No 10 percent penalty on early withdrawals:** An employee who takes a withdrawal from a retirement plan or IRA under the CARES Act provisions will not be subject to the 10 percent early withdrawal penalty.

> **When does this exception apply?** Withdrawals occurring between the dates of enactment through December 31, 2020.
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> **Who can use this exception?** An individual who was diagnosed with or cared for a spouse or dependent with COVID-19 or who suffered adverse financial impact due to the COVID-19 quarantine, furlough, layoff or child care closure.
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> **Is there a limit on the tax-favored withdrawal?** Yes, $100,000. Larger withdrawals would still be partially subject to the early withdrawal penalty.
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> **Are there tax consequences?** Yes. Regular income taxes apply to the distribution and can, at the individual's election, be spread over three years.
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> **Can I return the money?** Yes, the withdrawal can be repaid to the plan over a three-year period following the

distribution.

**Loans from qualified plans enhanced:** The CARES Act increases the limits on loans, as well as delays due dates on loan payments due to COVID-19.

**Who can use these plan loan enhancements?** Same as above. An individual who was diagnosed with or cared for a spouse or dependent with COVID-19 or who suffered adverse financial impact due to the COVID-19 quarantine, furlough, layoff or child care closure.

**What are the new loan maximums?** The limits of Code Sec. 72(p)(2)(A) still generally apply, but portions were increased relative to the $50,000 limit (now increased to $100,000) and the one-half of present value limit (now increased to the full present value of the nonforfeitable accrued benefit).

**When does this loan limit exception apply?** Loans taken during the 180-day period after enactment.

**Is there relief for current loan payments?** Yes. The CARES Act extends due dates for loan payments due during the period of enactment through December 31, 2020, to the later of one year or 180 days after the enactment of the act. Interest continues to accrue. The repayment terms may disregard any five-year requirements.

**Plan amendments associated with these provisions:** The CARES Act provides that the plan may comply with these provisions and may adopt retroactive amendments by the end of the plan year beginning on or after January 1, 2022 (*i.e.*, by Dec. 31, 2022, for calendar year plans), or a later date provided by the Secretary of the Treasury. Governmental plans have two years to obtain legislative approval of amendments.

**Other considerations for plan sponsors:**

- Look out for delayed administrative due dates announced by the Internal Revenue Service (IRS) or U.S Department of Labor (DOL). The Pension Benefit Guaranty Corporation premiums will follow any delay announced for Form 5500 due dates.
- Can you afford employer contributions to the plan this year? Depending on the type (discretionary, fixed or safe harbor), you may have some flexibility to suspend them quickly.
- Be as responsive as possible in processing employees' requests to reduce or terminate elective deferrals during periods of financial strain.

## Authors