



# The Stimulus Package and Retirement

What the Consolidated Appropriations Act means for plans.

February 2021

## KEY POINTS

- The year-end stimulus bill included COVID-19 relief, extension of expiring tax provisions, and employee benefit provisions.
- Some media outlets incorrectly reported that the bill extended CARES Act provisions for coronavirus-related distributions and loans.
- The employee benefit provisions include qualified disaster distributions, partial plan termination relief, and an extension of tax-free treatment for employer educational assistance.

**O**n December 27, 2020, President Trump signed the Consolidated Appropriations Act, 2021 (CAA), a massive stimulus bill that contained a limited number of retirement and other employee benefit provisions.

The CAA did not extend any of the provisions in the Coronavirus Aid, Relief, and Economic Security (CARES) Act regarding coronavirus-related distributions and loans (despite press reports to the contrary).

## Qualified Disaster Distributions

The CAA establishes a temporary penalty-free in-service withdrawal option from workplace retirement plans and IRAs of up to \$100,000 for certain individuals impacted by a qualified disaster (excluding COVID).

Qualified Disaster Distributions from workplace retirement plans:

- Are not subject to 20% mandatory withholding or 402(f) notice requirements.
- Can be recontributed, in whole or in part, to a workplace retirement plan or IRA to which an individual has a right to make rollover contributions at any time within three years of the distribution. These recontributions will be treated as direct trustee-to-trustee transfers made within 60 days of the original distribution.
- Can be included in an individual's gross income for income tax purposes ratably over a three-year period.

To qualify for a Qualified Disaster Distribution, an individual must:

- Have their principal place of abode at any time during the "incident period"<sup>1</sup> of a "qualified disaster"<sup>2</sup> located in a "qualified disaster area";<sup>3</sup>

<sup>1</sup>Defined as the period specified by FEMA as the period when the disaster occurred, except that for the purpose of Qualified Disaster Distributions the period shall not be treated as ending after January 26, 2021.

<sup>2</sup>The disaster that created the need for the declaration of a major disaster.

<sup>3</sup>An area where a major disaster was declared by the President starting on January 1, 2020 and ending on February 25, 2021, if the incident period begins on or after December 28, 2019 and on or before December 27, 2020.

- Have sustained an economic loss by reason of such disaster; and
- Take the distribution on or after the first day of the incident period of a qualified disaster and before June 25, 2021.

## Other Retirement-Related Disaster Provisions

The CAA provides for temporary loan flexibility for individuals impacted by qualified disasters. Namely, the CAA provides for higher loan limits and the ability to temporarily suspend loan repayments. Also, similar to the relief provided for prior hurricanes and natural disasters, the CAA permits recontributions of certain withdrawals for home purchases in qualified disaster areas (i.e., withdrawals that were never used, due to a qualified disaster, to purchase a home).

## Partial Plan Termination Relief

The CAA provides that a plan will not be treated as having a partial plan termination (triggering 100% vesting for terminated employees) during any plan year that includes the period beginning on March 13, 2020, and ending on March 31, 2021, if the number of active participants covered by the plan on March 31, 2021, is at least 80% of the number of active participants covered by the plan on March 13, 2020.

This relief is particularly helpful for plans that had temporarily laid off a significant percentage of its workforce and had subsequently rehired a number of employees. Under longstanding IRS guidance (Rev. Rul. 2007-43), the fact that employees were subsequently rehired would not necessarily have been taken into account in determining the 80 percent threshold.

## Money Purchase Plans (MPPs) and Coronavirus-Related Distributions (CRDs)

MPPs are generally prohibited from making in-service distributions prior to age 59½, and IRS guidance following the enactment of the CARES Act clarified that CRDs were no exception.

The CAA included a provision permitting MPPs to make in-service CRDs through December 30, 2020. Clearly, a short period of three days following enactment was not enough time for plan sponsors to adopt and implement this optional change. However, this provision would be helpful for MPPs that may have permitted in-service CRDs without any age limit earlier in 2020, prior to IRS guidance.

## DOL E-Delivery Report

In a congressional report related to the CAA is a request for the DOL to report within a year on its new e-delivery rules and its impact “on individuals residing in rural and remote areas, seniors, and other populations that either lack access to web-based communications or who may only have access through public means.”

## Extension of Student Loan Benefits

The CAA extends the CARES Act temporary allowance (i.e., tax-free treatment) of up to \$5,250 annually in employer educational assistance, including assistance with student loan repayments. This employee benefit, which was due to expire at the end of 2020, was extended until the end of 2025.



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