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Plan Insight



PUBLICATION OF EQUITABLE'S Retirement Plan Consulting Group

Spring 2020

Legislative changes impact retirement plans

The Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") and Setting Every Community Up for Retirement Enhancement Act ("SECURE Act"), which were signed into law on March 27, 2020 and December 20, 2019, respectively, contain significant changes that may impact your retirement plan.

The CARES Act makes it easier for plan participants to access retirement savings through tax-favored distributions, relaxes certain participant loan limitations and allows a temporary waiver of required minimum distributions for certain plans.

In order to streamline plan administration and assist employers with the implementation of CARES Act relief for your participants, Equitable has created an Operational Checklist with "Plan Default" provisions that will be implemented unless employers choose alternate options to override the Plan Defaults. The checklist was provided via e-mail and is available on the plan sponsor website.

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Helping plan sponsors better understand and administer their retirement plans with Equitable



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CARES Act

Changes to assist retirement plan participants impacted by the Coronavirus

Below is an explanation of key retirement plan provisions in the CARES Act.

Coronavirus-related Distributions (CRD)

- Allows CRD to Qualified Individuals of up to \$100,000
- CRD are available until December 30, 2020
- Permits withholding flexibility with 10% being the default instead of the typically required 20% with most qualified plan distributions
- Waives the 10% penalty tax normally applicable to premature distributions
- CRD amounts can be included in income ratably over three years
- CRD amounts can be repaid to an eligible retirement plan within three years of the date of distribution

Increased Maximum Loan Amount (For plans with the loan feature available)

Increase the maximum loan amount available to Qualified Individuals from the lesser of \$50,000 or 50% of vested account balance to the lesser of \$100,000 or 100% of the participant's vested account balance. These increased limits are only effective during the 180-day period beginning on the date of enactment of the CARES Act.

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Who is a Qualifying Individual?

A Qualifying Individual for purposes of eligibility for CRD, increased maximum loan amount and deferral of loan repayments is someone who:

- Has been diagnosed with the virus SARS-CoV-2 or with coronavirus disease 2019 (COVID-19) by a test approved by the Centers for Disease Control and Prevention
- Has a spouse or dependent that has been diagnosed with such virus or disease by a test approved by the Centers for Disease Control and Prevention, or
- has experienced adverse financial consequences due to the virus SARS-CoV-2 or coronavirus disease 2019 (COVID-19) because they, their spouse or a member of their household* was quarantined, furloughed or laid off, had work hours reduced, was unable to work due to lack of childcare, had reduced pay or self-employment income; had a job offer rescinded or start date for a job delayed, or had a business any of the above individuals owned or operated closed or experience reduced hours.

* A member of the individual's household is someone who shares the individual's principal residence.



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Deferral of Loan Repayments

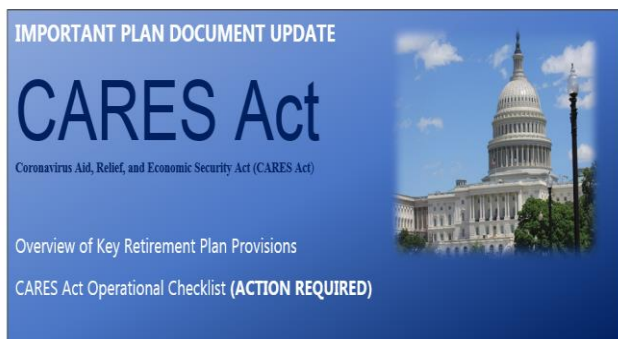
Allow Qualified Individuals to defer outstanding loan repayments and the commencement of the repayment period for loans, due between March 27, 2020 and December 31, 2020, for one year. Repayments will begin at the end of the suspension period and the interest that accrues during the suspension period will be added to the outstanding principal and re-amortized over the remaining period of the loan plus the length of the suspension period.

FORMS AVAILABLE FOR CRD and LOAN REQUESTS

The Coronavirus-Related Distribution Form and Coronavirus Loan Request Form for Qualifying Individuals are available on the plan sponsor and participant websites. The forms provide for the

Program Website – Look for the banner below on the Employer portion of the program website for the CARES Act overview, Operation Checklist as well as any updates on additional guidance and plan administration.

required self-certification of status as a Qualifying Individual and contain important details on CRD,



maximum loan amounts and repayment periods. These forms must be used by Qualifying Individuals instead of the existing distribution and loan request forms.

If you or your participants have any questions on rules and forms, please contact a retirement plan account manager.

REQUIRED MINIMUM DISTRIBUTION (RMD) WAIVED FOR 2020

RMDs are waived for 2020. Participants or beneficiaries otherwise required to take an RMD in 2020, including participants who reached the required age in 2019 and had a due date of April 1, 2020 but did not take their first RMD prior to January 1, 2020, are not required to take the RMD for the 2020 distribution calendar year. This generally includes those who are over age 70 ½ before 2020, unless they are less than 5% owners and still working. Equitable will not distribute amounts equal to the 2020 RMD for impacted participants or beneficiaries unless such individual makes an affirmative election to receive their 2020 RMD equivalent amount.

Alternatively, you, as plan sponsor, can choose on the Operational Checklist to have the 2020 RMD equivalent amount distributed to impacted participants or beneficiaries and provide them the option to affirmatively elect not to receive their 2020 RMD equivalent amount.





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SECURE Act:

Overview of potential impact on retirement plan sponsors and participants

The Setting Every Community Up for Retirement Enhancement Act (the "SECURE Act") which was signed into law on December 20, 2019 made significant changes to the rules that apply to employer-sponsored retirement plans like yours as well as IRAs.

These new rules include changes to when distributions are required or permitted, potentially allowing for more employees to participate, relaxing of safe harbor notice disclosures in some cases as well as expanding the ability to amend to a safe harbor nonelective option, expanding participant disclosures and portability of lifetime income streams, and increasing penalties for late annual reporting. Many of these provisions may impact your plan and some are already effective and may require action on your part to begin operating under the new rules.

Below is a list of key SECURE Act provisions including the effective date and information on whether you should be considering action steps at this point. We will update this overview as more guidance becomes available.

SECURE Act provisions

Below is a list of key provisions in the SECURE Act that impact retirement plans. These items will be discussed in more detail in this Plan Insight edition.

Change to Required Beginning Date for minimum distributions from age 70 ½ to age 72.

Long-term part-time employees will be eligible to participate in 401(k) plan if they meet certain requirements

Modification of post death required minimum distribution rules for certain beneficiaries

Increased Penalties for failing to timely file 5500s and 8955-SSAs and provide a withholding notice

\$5,000 Qualified Birth or Adoption Distribution Penalty Free

401(k) Safe Harbor Plan nonelective contribution adoption and notice requirements relaxed

Plan benefits statements must include lifetime income disclosure at least once every 12 months

Limit raised on Automatic Enrollment default rate

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Change in Required Beginning Date from Age 70 ½ to Age 72

The law has now pushed back the date a participant is required to begin receiving minimum distributions from their retirement plan (or IRA) from age 70 ½ to age 72. This new rule is effective for participants who attain 70 ½ after December 31, 2019. Participants who attained age 70 ½ on or before December 31, 2019 are required to use the old rules.

Any participant born after June 30, 1949 is impacted by the change. For example, if a participant was born on July 1, 1949, that participant will attain age 70 ½ in 2020. Under the old law such a participant would have been required to take their first required minimum distribution by April 1, 2021 and their second required minimum distribution by December 31, 2021 and then subsequent required minimum distributions by December 31 of each year. Under the new rule, this participant would not be required to take their first minimum distribution until April 1, 2022 since they will attain age 72 in 2021.

The new rules only changed the age for the required beginning date for minimum distributions. Non-5% owners, over age 70 ½, and now age 72, who are still working, are not required to take their first required minimum distribution until the April 1 of the year following their termination of employment, unless the plan has made an election requiring distributions when at age 70 ½ (now age 72), regardless of employment status. The delay to after termination date does not apply to 5% owners (own more than 5% of the business).

Participants affected by this change should be informed as soon as possible so they can discuss



the impact with their tax or financial professional.

Long-term part-time employees will be eligible to participate in 401(k) plan if they meet certain requirements

Under current law, employers can generally exclude employees from participating in a 401(k) plan until they have worked at least 1,000 hours in a 12-month computation period. As a result, many part-time workers, including long term part-time workers, never become eligible to participate in the plan. The SECURE Act changes that by mandating that employers also permit employees who have worked at least 500 hours in at least three consecutive years to participate as well. This change is effective beginning with plan years starting 2021 when employers must start counting 500-hour years for eligibility so the earliest any part time employee (who isn't already eligible) would be eligible to participate in a 401(k) plan would be 2024.

It should be noted that this change allows impacted employees to make 401(k) salary deferral contributions however, it does not obligate the employer to make matching and/or profit sharing

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contributions. In addition, plans can exclude the impacted part-time employees from testing calculations and if a plan already permits part-time employees to participate then this law change does not change current elected plan provisions.

Modification of post death required minimum distribution rules for non-spouse beneficiaries of certain inherited retirement accounts and IRAs

The SECURE Act generally eliminates the ability of the non-spouse beneficiary to take distributions over the life expectancy and replaces it with a 10-year rule with certain exceptions. The 10-year rule provides that distributions must be made to designated beneficiaries within 10 years from the date of the retirement plan participant or IRA owner's death.

Certain 'eligible beneficiaries' (surviving spouse, disabled or chronically ill beneficiary, an individual who is not more than 10 years younger than the retirement account or IRA owner, a child of the owner who has not reached age of majority, but only until they reach the age of majority) are not subject to the 10-year rule. For non-designated beneficiaries (charity, estates), pre-SECURE Act rules

continue to apply. For example, non-designated beneficiaries must withdraw the entire account within 5 years of the employee or IRA owner's death if required distributions have not begun prior to death.

Increased Penalties for failing to file 5500s and 8955-SSAs in a timely manner; Provide withholding notice

The IRS and DOL both can assess penalties on qualified retirement plans that file late plan returns (e.g. form 5500). Starting in 2020 the SECURE Act will increase by a multiple of 10 the maximum allowed IRS penalties due for forms and notices as follows:

- **Failing to timely file Form 5500** can now create a fine of up to \$250 per day, not to exceed \$150,000 per plan year. Before the SECURE Act, the penalty was \$25 a day, not to exceed \$15,000 per plan year.
- **Failing to file Form 8955-SSA**, for terminated vested participants that remain in the plan, can now create a fine for the

Eligible Designated Beneficiary

- surviving spouse
- disabled or chronically ill beneficiary
- an individual who is not more than 10 years younger than the retirement account or IRA owner
- a child of the owner who has not reached age of majority





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Compliance Corner

5500 FILING FOR 2019 PLAN YEAR

CALENDAR YEAR DEADLINE IS JULY 31, 2020

The annual 5500 filing for the 2019 plan year (for calendar year plans) is due on July 31, 2020. Invitations to file the 5500-SF will be sent out throughout the second quarter of 2020. Once you receive your invitation, please follow the process below to review, electronically sign, and submit your forms.

- Go to the Program website, Employer Log-In.
- Select the Compliance tab and click the Go To 5500 Report button.
- Select the button for E-signing and then follow the instructions.
- You will have to View/Print the 5500 and then enter your DOL credentials to electronically sign and submit the 5500 to the DOL. (Note: If your previously filed your 5500 through the program website then your DOL credentials are conveniently stored for you on the site.)
- You should also print and distribute the Summary Annual Report (SAR) which is available in the documents section.

initial filing of up to \$10 per participant per day, not to exceed \$50,000, up from a daily penalty of \$1 per participant per day, not to exceed \$5,000. The daily fines for failing to report an update to **Form 8955-SSA** are the same as the with the initial filing however the maximum fine for this action has increased to \$10,000 which is up from \$1,000.

- **Failing to provide income tax withholding notices** to participants taking distributions from the plan can create a fine of up to \$100 for each failure, not to exceed \$50,000 for the calendar year, up from \$10 for each failure, not to exceed \$5,000.

A separate, annually adjusted DOL penalty of up to \$2,194 per day for late filing of Form 5500 was not changed by the SECURE Act. These increased penalties from the IRS apply to filings after December 31, 2019 and make timely filing of your 5500 form even more important. Just a reminder, 5500 forms are required by the end of the seventh month after the close of your plan year, e.g. July 31, 2020 for 2019 calendar year plans.

If you have not yet completed your online census information, please visit the Employer site, select the Compliance tab and then the E-Compliance button. There is a Census and 5500 Filing Guide available on the site to assist you in completing the census information.

The 5500 forms are completed on a cash basis which means that the financial component of the form will only reflect transactions between January 1, 2019 and December 31, 2019.

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Therefore, unless you have a defined contribution pension plan with required contributions, 2019 contributions you sent in 2020 will be reflected on the 2020 form and even if you have not finished funding for the 2019 plan year, you can go ahead and file your 2019 5500 after you receive your invitation.

Once you receive your invitation, if you have questions on your form, please contact a Retirement Plan Account Manager. If you are one-participant plan (only owners/spouses) with more than \$250,000 in plan assets and you are not filing a 5500-SF electronically, you should have received a 5500-EZ to file by mail. If you believe you need to file a 5500-EZ, but have not received the completed form, please contact a Retirement Plan Account Manager.

Form 5500-SF Department of the Treasury Internal Revenue Service Department of Labor Employee Benefits Security Administration Pension Benefits Guaranty Corporation		Short Form Annual Return/Report of Small Employee Benefit Plan This form is required to be filed under sections 104 and 4085 of the Employee Retirement Income Security Act of 1974 (ERISA), and sections 6067(b) and 6069(a) of the Internal Revenue Code (the Code).		OMB Nos. 1510-0110 1510-0089 2019 This Form is Open to Public Inspection
Part I Annual Report Identification Information For calendar plan year 2019 or fiscal plan year beginning _____ and ending _____				
A This return/report is for: <input type="checkbox"/> a single-employer plan <input type="checkbox"/> a multiple-employer plan (not multiemployer) (filers checking this box must attach a list of participating employer information in accordance with the form instructions)				
B This return/report is: <input type="checkbox"/> a one-participant plan <input type="checkbox"/> a foreign plan				
C Check box if filing under: <input type="checkbox"/> Form 5558 <input type="checkbox"/> automatic extension <input type="checkbox"/> DFVC program <input type="checkbox"/> special extension (enter description) _____				
Part II Basic Plan Information—enter all requested information				
1a Name of plan _____			1b Three-digit plan number (PIN) _____	
1c Effective date of plan _____				
2a Plan sponsor's name (employer, if for a single-employer plan) Mailing address (include room, apt., suite no. and street, or P.O. Box) City or town, state or province, country, and ZIP or foreign postal code (if foreign, see instructions)			2b Employer Identification Number (EIN) _____	
			2c Sponsor's telephone number _____	
			2d Business code (see instructions) _____	
3a Plan administrator's name and address <input type="checkbox"/> Same as Plan Sponsor.			3b Administrator's EIN _____	
			3c Administrator's telephone number _____	
4 If the name and/or EIN of the plan sponsor or the plan name has changed since the last return/report filed for this plan, enter the plan sponsor's name, EIN, the plan name and the plan number from the last return/report.			4b EIN _____	
a Sponsor's name _____			4d PIN _____	
c Plan Name _____				
5a Total number of participants at the beginning of the plan year _____			5a _____	
b Total number of participants at the end of the plan year _____			5b _____	
c Number of participants with account balances as of the end of the plan year (only defined contribution plans complete this item) _____			5c _____	
d(1) Total number of active participants at the beginning of the plan year _____			5d(1) _____	
d(2) Total number of active participants at the end of the plan year _____			5d(2) _____	
e Number of participants who terminated employment during the plan year with accrued benefits that were less than 100% vested _____			5e _____	
Caution: A penalty for the late or incomplete filing of this return/report will be assessed unless reasonable cause is established.				
Under penalties of perjury and other penalties set forth in the instructions, I declare that I have examined this return/report, including, if applicable, a Schedule SB or Schedule MB completed and signed by an enrolled actuary, as well as the electronic version of this return/report, and to the best of my knowledge and belief, it is true, correct, and complete.				
SIGN HERE		Signature of plan administrator _____		Title _____
		Date _____		Enter names of individual owners on plan administrator _____



Web Feature Spotlight

Plan Information

One of the features on the employer website which you may find helpful in the administration of your plan is the Plan Information tab. On this tab you can find a list of the available investment options by asset class with its current unit value, a snapshot of the plan features available in your retirement plan and links to your adoption agreement, any amendments you have made and other documents

which your Retirement Plan Account Manager may have uploaded for your plan, e.g. Summary Plan Description.

In addition, there are links to plan documents, product prospectus, including the statement of additional information and any supplements added since the publishing of the last prospectus, as well as plan and participant fee disclosure documents.

Change from Age 70½ to Age 72 to start Lifetime Required Minimum Distributions
 Click here for details on effective date and who is impacted.

PLAN ADMINISTRATION REPORTING

Plan Name: _____ As of 04/08/2020 Participant Search: _____
 Search by last name or SSN [Go]

Plan ID: _____ Plan Type: 401K

SUMMARY CALENDAR ONLINE CONTRIBUTIONS PARTICIPANTS LOANS PLAN ASSETS PLAN INFORMATION COMPLIANCE RESEARCH INVESTMENTS

Investment Options | Plan Features | Plan Documents

Plan Documents

Plan Documents By Name By Date

Upload Plan Document Delete

Available for download or view on-line:

- AGA Owners 401(k) Plan and Trust Document - PPA
- AGA Owners 401(k) Plan Interim Amendment
- AGA Equitable Prototype Plan and Trust Document - PPA
- AGA Equitable Prototype Plan Interim Amendment
- Prospectus - Statement of Additional Information
- Prospectus - Supplements
- Plan Fee Disclosure Document
- Participant Fee Disclosure Document





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Equitable believes that education is a key step for retirement plan participants toward addressing their financial goals, and we've designed this material to serve simply as an informational and educational resource for plan sponsors. Accordingly, this discussion does not offer or constitute investment advice and makes no direct or indirect recommendation of any particular product or of the appropriateness of any particular investment-related option. The needs, goals, and circumstances of plan participants and sponsors are unique, and they require the individualized attention of a financial professional.

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