

## COVID-19 FAQ: Retirement Plan Issues



The recent spread of the novel coronavirus (COVID-19) in the United States has caused employers to be increasingly concerned and uncertain regarding the future of their workforces. Here are some answers to frequently asked questions (FAQs) about the latest developments on the virus and guidance from federal agencies.



*Last updated April 10, 2020.*

**This general guidance is based on U.S. federal employment law and the current medical assessment of COVID-19. State and local laws may apply, and medical assessments may change, resulting in different conclusions.**

## Retirement Plan Issues

[od\_accordion title="Question 1. May employees access hardship withdrawals from their 401(k) plans due to issues relating to COVID-19 hardships?" after\_title="(Updated April 10, 2020)"] Answer 1. Maybe. Whether an employee may access a hardship withdrawal from their 401(k) accounts depends upon how the plan document defines "hardship." Employers will need to review their plan documents and coordinate with their plan administrators.

Note that "coronavirus-related distributions" are not hardships, but are an entirely new distribution option subject to the rules in the CARES Act. [/od\_accordion]

[od\_accordion title="Q2. May an employee make an in-service withdrawal from the 401(k) plan?" after\_title="(Updated April 10, 2020)"] A2. Maybe. Some 401(k) plans permit in-service withdrawals

(i.e., withdrawals for no reason or without demonstrating a hardship) from certain vested accounts in the plan. Employers should review their plan documents to determine whether in-service withdrawals are available, and if so, work with their administrators to provide those to employees who are requesting them.

Also, refer to question 1 of this section for information on “coronavirus-related distributions” made available by the CARES Act.[/od\_accordion]

[od\_accordion title=”Q3. May an employee access a plan loan from their 401(k) plan?” after\_title=”(Updated April 10, 2020)”]A3. Yes, 401(k) plans that offer plan loans generally permit them for any reason, so the employee need not demonstrate any particular financial need or harm. It is important, however, for employers to consider how their plan loan policy may impact employees in this context. Some plan loan policies limit employees to only having one loan at a time. Others limit loans to only certain portions of their account. Some policies require a discharged employee to repay the loan in full or suffer a forced default, while others permit the employee to continue making periodic payments. Employers should coordinate any changes to their loan policy with their administrators.

Additionally, the CARES Act contains two provisions affecting plan loans. First, for new loans taken out on or after March 27, 2020, and on or before September 23, 2020, “qualified individuals” may borrow up to the lesser of \$100,000 and 100 percent of their vested account balance (increased from \$50,000 and 50 percent). Second, loan repayments will be delayed for one year for “qualified individuals” with plan loan repayment dates occurring on or after March 27, 2020, and on or before December 31, 2020. For more information on the provisions of the CARES Act affecting 401(k) plan loans, please see our [recent blog post](#).[/od\_accordion]

[od\_accordion title=”Q4. Does the CARES Act waive minimum required distributions for 2020?” after\_title=”(Updated April 10, 2020)”]A4. Yes, but only for defined contribution plans (not defined benefit plans). Required minimum distributions (RMDs) due in 2020 (including those that are attributable to someone who turned 70.5 during 2019) are included in the waiver. For more information on the provisions of the CARES Act affecting RMDs, please see our recent blog post.[/od\_accordion]

[od\_accordion title=”Q5. How are defined benefit plans affected by the CARES Act?” after\_title=”(Updated April 10, 2020)”]A5. Certain employer funding contributions, known as minimum required contributions, due in calendar year 2020 are delayed until January 1, 2021. Additionally, sponsors of single-employer defined benefit plans may treat the plan’s adjusted funding target attainment percentage (AFTAP) for the last plan year ending before January 1, 2020, as the AFTAP for plan years that include calendar year 2020. This allows employers to use the plan’s 2019 funding status for certain purposes in 2020. We anticipate the AFTAP provision to be useful primarily for non-calendar year plans. For more information on these provisions of the CARES Act, please see our [recent blog post](#).[/od\_accordion]

**For more answers to your frequently asked questions, please select a topic below:**

- ADA
- Attendance
- Compensation and Tax Issues
- Confidentiality
- Disability Related Inquiries and Medical Examinations
- Employees with Symptoms or Exposure
- Families First Coronavirus Response Act (FFCRA)
- FMLA

- 
- Health coverage
  - Hiring During the COVID-19 Pandemic
  - NLRA
  - Reduction in Force/WARN

**Ogletree  
Deakins**

November 17, 2022

Health coverage  
DOL Sued Over FOIA  
Request for Contractors'  
FEOI Rep Sick Leave

- Wage and Hour
- Workers' Compensation

**Ogletree  
Deakins**

January 25, 2023

OFCCP's Scheduling List  
Targets Contractors That  
Didn't Certify in OFCCP's  
Contractor Portal

**RELATED WEBINAR**

**Ogletree  
Deakins**

February 9, 2023

I-9 Compliance Series: The  
Basics, Part 1—What Does  
Good Faith Compliance  
Mean? Contractors'...

**RELATED SEMINAR**

## Browse More Insights

PODCASTS

SEMINARS

WEBINARS



Sign up to receive emails about new developments and upcoming programs.

SIGN UP NOW



