

# Legislative & Regulatory Update

Best of PlanSponsor National Conference 2020

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# **SECURE Act, CARES Act & Coronavirus-Related Guidance**

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# SECURE Act and Agency Guidance

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## Setting Every Community Up for Retirement Enhancement Act (“SECURE Act”)

- December 19, 2019: The SECURE Act is signed into law.
- August 18, 2020: DOL issues final interim rule regarding lifetime income disclosures for defined contribution plans (effective 9/18/21)
- September 8, 2020: IRS Notice 2020-68 provided some SECURE Act guidance, including about qualified birth or adoption distributions.
- SECURE Act plan amendments need to be made by the end of 2022 for calendar year plans (2024 for governmental plans).

# CARES Act and Agency Guidance

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## Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”)

- March 27, 2020: The CARES Act is signed into law.
- April 9: IRS Notice 2020-23 extends certain deadlines (to July 15).
- April 10: PBGC extends certain filing deadlines (to July 15).
- April 29: DOL Notice 2020-01 extends certain ERISA notice deadlines and offers procedural compliance relief.
- May 4: IRS issues FAQ guidance on coronavirus-related distributions and loans.
- June 3: IRS Notice 2020-42 about remote electronic notarization.
- June 19: IRS Notice 2020-50 about coronavirus-related distributions and loans.
- June 23: IRS Notice 2020-51 about waiver of RMDs in 2020.
- June 29: IRS Notice 2020-52 about mid-year changes to safe harbor plans.
- July 31: IRS Notice 2020-61 about ability to delay pension funding until 1/1/21.
- September 21: PBGC provides relief for variable rate premiums for prior year contributions made by 1/1/21.
- CARES Act plan amendments need to be made by the end of 2022 for calendar year plans (2024 for governmental plans).

# Changes to Required Minimum Distributions

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- SECURE Act (December 2019) changed the RMD age from 70.5 to 72, effective 1/1/20.
  - If you turn (or turned) 70.5 after December 31, 2019, you can delay distributions until April 1 after the year in which you terminate employment or turn 72, whichever is later.
  - If you turned 70.5 in 2019, RMDs must begin by April 1, 2020 (or termination of employment, if later).
- CARES Act said defined contribution plans may waive RMDs in 2020.
  - Regarding RMDs that were distributed before March 27, 2020 (the date the CARES Act was signed) IRS Notice 2020-51, *released June 23, 2020*, gave participants until August 31, 2020 to recontribute them or roll them over.
  - **No 2020 RMD waiver for defined benefit plans.**

# SECURE Act and CARES Act Introduced Optional Changes for Pension Plans

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- SECURE Act gave broad testing relief for closed plans
  - Coverage (410(b)), Participation (401(a)(26)), and Nondiscrimination (401(a)(4))
- SECURE Act reduced age (from 62 to 59.5) for phased retirement (optional)
- CARES Act allows companies to delay 2020 pension contributions
  - Plan sponsors may delay until January 1, 2021 any contribution required to be made in 2020
    - 2019 contributions must have been deposited by Sept. 15, 2020 to be deducted in 2019
  - Interest would accrue at the plan's effective rate as determined by the plan's actuary

# IRS, DOL and PBGC Extended Deadlines for Certain Participant Communications and Elections

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- Agencies have extended certain deadlines for participant communications until 60 days after the end of the President’s emergency declaration
  - Applies to SPDs, benefit statements, notices in 2020
  - Fiduciary must act in good faith and furnish docs “as soon as administratively practicable under the circumstances”
- Other extended deadlines
  - DOL: Claims and appeals deadlines after March 1, 2020 – extended until 60 days after end of emergency declaration
  - IRS: gave participants relief for “Specified Time-Sensitive Actions” between April 1- July 15, 2020 – until July 15, 2020
  - Fiduciaries should make “reasonable accommodations” to prevent loss of benefits or undue delay in payments
  - PBGC gave employers extension on filings and premium payments due between April 1- July 15 – until July 15, 2020



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# Possible Coming Legislation...

TBD

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# SECURE 2.0?

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- Senate: Retirement Security and Savings Act introduced by Senators Cardin and Portman on 5/3/19.
- House: Securing a Strong Retirement Act introduced by House Ways & Means Committee chair Neal and ranking member Brady on 10/27/20.

# Ivins, Phillips & Barker



**IVINS, PHILLIPS & BARKER**, founded by two of the original judges on the United States Tax Court in 1935, is the leading law firm in the United States exclusively engaged in the practice of federal income tax, employee benefits and estate and gift tax law. Our decades of focus on the intricacies of the Internal Revenue Code have led numerous Fortune 500 companies, as well as smaller companies, tax exempt organizations, and high net worth individuals to rely on the firm for answers to the most complicated and sophisticated tax planning problems as well as for complex tax litigation. We provide expert counsel in all major areas of tax law, and we offer prompt and efficient attention, whether with respect to the most detailed and intricate of issues or for rapid responses to emergency situations.

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