

BENEFITS ADVANTAGE

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Special Issue: CARES Act and SECURE Act

Retirement plans are impacted by two important pieces of legislation signed in recent months: the Coronavirus Aid, Relief, and Economic Security (CARES) Act and the Setting Every Community Up for Retirement (SECURE) Act.

The CARES Act, signed on March 27, 2020, is designed to assist the millions of Americans affected by the COVID-19 pandemic.

The SECURE Act, signed on December 20, 2019, provides the most comprehensive retirement reform package in over a decade. The primary goals of the SECURE Act are to expand retirement savings, improve plan administration, simplify existing rules, and preserve retirement income.

This special issue of the *Benefits Advantage* provides you with information on both Acts to help you assess potential impacts on your plan and actions to consider. If you have questions, please contact your plan consultant, who will be glad to discuss the Acts in light of your specific circumstances.

For more information and updates on the CARES and SECURE Acts, visit FuturePlan.com.



Message to Our Friends and Partners

On behalf of all of us at FuturePlan, we extend our wishes for a full recovery to those directly affected by COVID-19 and our deepest sympathies to those who have lost loved ones. Our heartfelt thanks go out to the medical professionals, first responders, and essential workers who are saving lives and sustaining our communities.

Our highest priority at FuturePlan is the safety and wellbeing of our people, clients, and partners. We know that many of you are experiencing major business disruptions and may face difficult financial decisions. We understand and empathize, since so many of us at FuturePlan have owned or managed small businesses through previous economic downturns and devastating events. We hope you reach out so we can support you and share our experience with balancing urgent business needs with retirement security goals.

Stay safe and well.

Jerry Bramlett, President of FuturePlan



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CARES Act: Overview of Coronavirus Law's Retirement and Plan Healthcare Relief

With virtually every part of the U.S. economy facing unexpected financial challenges from the coronavirus (COVID-19) pandemic, Congress has passed the largest relief package in U.S. history. Signed into law on March 27, 2020, the Coronavirus Aid, Relief, and Economic Security (CARES) Act is designed to assist the millions of Americans affected by the outbreak. The legislation has multiple provisions that affect retirement and health savings.

Retirement Savings Provisions

Most financial experts advise against using assets that have been set aside for retirement for other purposes. But many individuals may have to do just that in order to supplement their income. The following provisions are intended to help individuals access their IRA and retirement plan assets and to replenish those assets later on.

- **New coronavirus-related distributions (CRDs)**
Individuals may withdraw up to \$100,000 in aggregate from eligible retirement plans without paying the 10 percent early distribution penalty tax.
 - A CRD is defined as a distribution made on or after January 1, 2020, and before December 31, 2020, to a qualified individual, defined as:
 - an individual (or the spouse or dependent of the individual) who is diagnosed with the COVID-19 disease or the SARS-CoV-2 virus in an approved test; or
 - an individual who experiences adverse financial consequences as a result of being quarantined, being furloughed or laid off or having work hours reduced due to such virus or disease, being unable to work due to lack of child care due to such virus or disease, closing or reduced hours of a business owned or operated by the individual due to such virus or disease, or other factors as determined by the Treasury Secretary.

The CARES Act clarifies that employers may rely on participants' certification that they meet the CRD requirements.

- An eligible retirement plan is defined as a qualified retirement plan (e.g., a 401(k) plan), 403(b) plan, governmental 457(b) plan, or an IRA.
 - CRDs will meet the retirement plan distribution requirements as long as all distributions from one employer don't exceed \$100,000.
 - Individuals may repay CRDs over three years beginning with the day following the day a CRD is made. Repayments may be made to an eligible retirement plan or IRA.
 - CRD repayments made within the three-year period will be treated as having satisfied the general 60-day rollover requirement.
 - CRDs will be taxed ratably over a three-year period unless an individual elects otherwise. Although CRDs may be rolled over, they aren't considered "eligible rollover distributions" for certain purposes. Employers aren't required to offer a direct rollover option. Employers also aren't required to withhold 20 percent on a CRD or provide a 402(f) notice, which explains the tax and rollover options required by IRC Sec. 402(f).
- **Waiver of RMDs in—or for—2020**
Financial markets have taken a hit in the wake of the coronavirus outbreak. To help savers retain more in



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their retirement accounts, the CARES Act waives the required minimum distribution (RMD) in 2020 for plan participants, IRA owners, and beneficiaries.

- RMDs normally required to be taken for 2020 are waived.
- This waiver also applies to individuals who turned 70½ in 2019 but who didn't take their first RMD before January 1, 2020. In the absence of additional relief, the next RMD for those individuals must be taken by December 31, 2021.
- For purposes of counting the five-year period for beneficiary distributions, 2020 is disregarded and one year is added to the remaining period. For example, for deaths occurring in 2019, the five-year period in which the inherited assets must be distributed will end on December 31, 2025, instead of on December 31, 2024.
- A distribution that is taken in 2020—but that isn't an RMD because of the waiver—may be rolled over to another eligible retirement plan or to an IRA within 60 days of the distribution. Though such distributions may be rolled over, they're similar to CRDs in that they aren't treated by employer plans as eligible rollover distributions for purposes of the 20 percent mandatory withholding, the 402(f) notice, or the direct rollover requirements.
- **Increased maximum plan loan amount**
The retirement plan loan maximum for a qualified individual (defined as meeting the COVID-19 or SARs-CoV-2 conditions described previously) is increased to the lesser of \$100,000 or 100 percent of the participant's vested balance. This increased amount applies to loans made during the 180-day period beginning on March 27, 2020.
- **Delayed plan loan repayment date**
Retirement plan loan repayment dates that occur between March 27, 2020, and December 31, 2020, can be delayed for one year, with the amortization period—including the five-year repayment deadline—adjusted accordingly.

- **Funding relief for defined benefit plans**
For single-employer defined benefit pension plans, the minimum required contributions due during 2020 can be delayed to January 1, 2021 (adjusted for interim earnings). Employers also have an option to use an alternative funding target percentage.
- **Expanded DOL authority to postpone certain deadlines**
In addition to taking action in response to a disaster or terroristic threat, the DOL may now postpone certain deadlines under ERISA if a public health emergency (like the COVID-19 pandemic) occurs.
- **Amendment guidance**
Plan sponsors generally must amend their retirement plans for these provisions by the last day of the 2022 plan year (government plans have an additional two years), or such other date as the Treasury Secretary may prescribe, with operational compliance during the interim period.

Health-Related Provisions

- **Allowable Services**
Health insurance plans can pay for telehealth and remote care services without first requiring an individual to satisfy a deductible. Such payments will be deemed not to violate existing HSA requirements. This relief applies to plan years that begin on or before December 31, 2021, and promotes diagnosis and treatment while helping individuals avoid possibly risky in-person contact.
- **New qualified medical expenses**
Certain medicines or products don't need to be a "prescription" to be qualified medical expenses for HSA, HRA, MSA, and health FSA purposes. The CARES Act specifically includes over-the-counter menstrual care products.

We're closely reviewing the CARES Act and other possible COVID-19 guidance. Visit [FuturePlan.com](https://www.futureplan.com) for the latest information and developments. Please contact your plan consultant for more information on implementing CARES Act provisions. ■

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The SECURE Act: Highlights for Employer-Sponsored Retirement Plans

The Setting Every Community Up for Retirement (SECURE) Act, signed on December 20, 2019, provides the most comprehensive retirement reform package in over a decade. The primary goals of the SECURE Act are to expand retirement savings, improve plan administration, simplify existing rules, and preserve retirement income.

This article highlights some of the provisions that enhance sponsorship and provide ways to save more in existing employer-sponsored retirement plans, along with other provisions affecting employer plans. Additional retirement plan provisions not covered in this article address incentives for establishing an employer plan, 403(b) plans, governmental 457(b) plans, multiple employer plans (MEPs), IRA contributions, and disaster relief. As with any piece of legislation, questions will arise as provisions are analyzed. We expect the IRS and Department of Labor (DOL) to address these concerns in the coming months.

New Incentives to Enhance Employer Plan Sponsorship

The following are some of the SECURE Act provisions that create new incentives and modify existing incentives to enhance employer plans.

- **Automatic enrollment credit**

The SECURE Act provides a new tax credit to employers who include an automatic enrollment feature in their



new or existing small 401(k) plans or SIMPLE plans. The maximum annual tax credit is \$500 for each of the first three years in which the plan is maintained.

- **Election of 401(k) nonelective safe harbor design**

Employers who make nonelective safe harbor plan contributions (versus a matching contribution) get two benefits: 1) they now escape the notice requirement, and 2) they have more time to amend their plans to implement this nonelective 401(k) safe harbor plan feature. However, in order for you as the Employer to reserve your right to make a mid-year change in the nonelective contribution/safe harbor arrangement, you must continue to send the annual safe harbor notice which contains the existing language (that the "Employer reserves the right to reduce or suspend Safe harbor nonelective contributions mid-year").

Specifically, employers may amend up to 30 days before the end of the plan year if they make a three-percent nonelective contribution. But, they may generally amend by the close of the following plan year if the plan is amended to require a four-percent nonelective safe harbor contribution (effective for 2020 and later plan years). If you make this decision by the close of the plan's year, you'll have met the plan amendment deadline but missed the income tax deduction deadline and the deadline for filing a complete and accurate Form 5500 on behalf of plan's first year.

- **Annuity selection safe harbor**

The SECURE Act creates a new safe harbor for a plan fiduciary to meet the Employee Retirement Income Security Act's (ERISA's) "prudent man rule" when selecting an insurer and an annuity contract in order to offer lifetime income options under a plan. (Effective on date of enactment.)

New Ways to Save More in Employer Plans

Here are some of the SECURE Act's provisions that provide ways to save more.

- **Higher cap on deferrals in safe harbor 401(k) plans**

Some 401(k) plans meet nondiscrimination requirements through automatic enrollment and automatic deferral increases. These qualified automatic contribution

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arrangements (QACAs) will now have a maximum 15 percent deferral rate instead of 10 percent. The 15 percent cap doesn't apply in the first year of the employee's enrollment. It only applies in plan years after the first year of the employee's enrollment. (Effective for 2020 and later plan years.)

- **Lifetime income disclosure**

Defined contribution plans must provide, at least annually, a projected lifetime income stream that a participant's accrued benefits could generate. This disclosure doesn't create employer liability for the amounts projected. (Effective for benefit statements provided more than 12 months after the DOL issues guidance, including the interest assumptions to be used and a model disclosure. The Act prescribes that this guidance can be completed within one year of enactment.)

- **Participation by less-than-full-time employees**

Employees who have three consecutive 12-month periods of 500 hours or more of service and who satisfy the plan's minimum age requirement must be allowed to make elective deferrals in an employer's 401(k) plan. The current, more restrictive, eligibility rules could continue to be applied to other contribution sources (e.g., matching contributions) and to Actual Deferral Percentage/Actual Contribution Percentage (ADP/ACP) safe harbor plans. Employers may also exclude such part-time employees from coverage, nondiscrimination, and top-heavy test rules. (Effective for 2021 and later plan years, but no 12-month period that begins before January 1, 2021, shall be taken into account.)

More Targeted Provisions Affecting Employer Plans

The SECURE Act contains a number of additional, more targeted provisions that apply to employer plans. Here are some of them:

- **Higher penalties for plan reporting failure**

Retirement plan information reporting failures will result in the following increased penalties. (Effective for filings and notices required January 1, 2020, and thereafter.)

- Form 5500, \$250 per day, up to a maximum of \$150,000.

- Form 8955-SSA (deferred benefit reporting), \$10 per day, up to a maximum of \$50,000 for failing to file; \$10 per day, up to a maximum of \$10,000 for failing to file a notification of change.

- Withholding notices, \$100 per failure, up to a maximum of \$50,000 for all such failures during any calendar year.

- **Nondiscrimination relief for closed pension plans**

Defined benefit pension plans that are closed to new participants will get nondiscrimination relief that protects benefits for older, longer-serving participants. (Effective upon enactment, or—if elected—for 2014 and later plan years.)

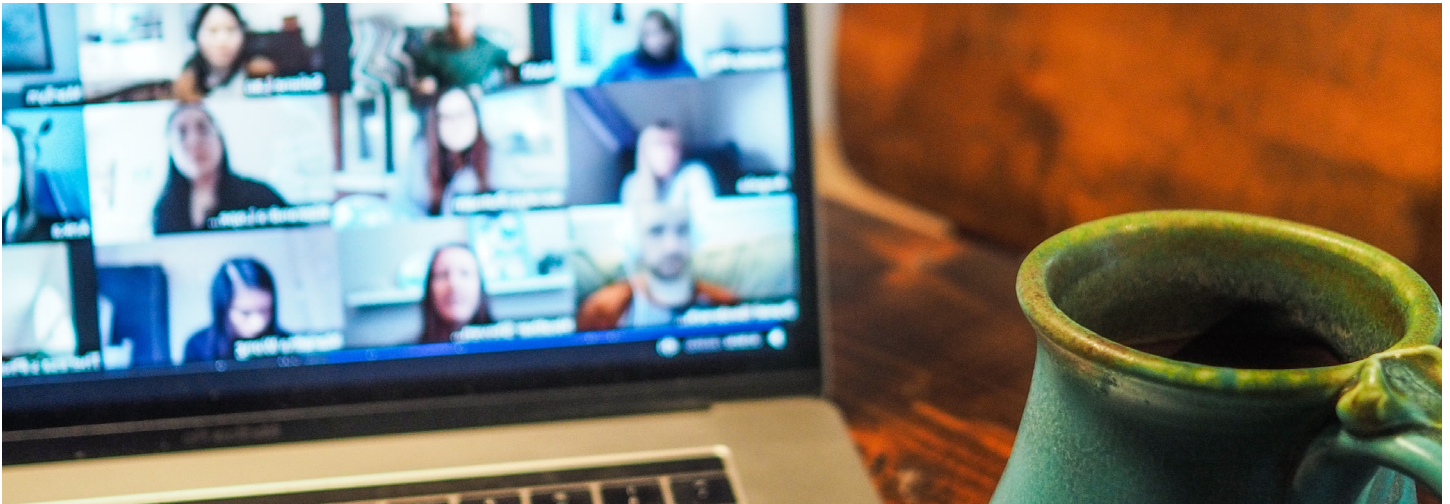
- **Community newspaper pension funding relief**

Sponsors of certain plans maintained for community newspapers may calculate defined benefit plan contributions with interest rates and amortization periods that reduce funding requirements. (Effective for plan years ending after December 31, 2017.)

Our team of ERISA attorneys and analysts will continue to monitor updates. We'll share them with you in upcoming issues of the *Benefits Advantage*. In the meantime, please contact your plan consultant with questions about how the SECURE Act affects your plan. ■



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SECURE Act Video Series

This helpful video series provides insights on the retirement-related SECURE Act provisions included in the Further Consolidated Appropriations Act, 2020.

Part 1: [Required Minimum Distributions](#)

Part 2: [Traditional IRA Contribution Eligibility](#)

Part 3: [Safe Harbor Plans](#)

Part 4: [Qualified Charitable Distributions](#)

Part 5: [Employer Plan Tax Credits](#)

Part 6: [Increased Penalties for Plan Reporting Failures](#)

Part 7: [New 529 Plan Higher Education Expenses](#)

Part 8: [New Plan Adoption Deadline](#)

Part 9: [Beneficiary Option Changes](#)

Part 10: [Qualified Birth or Adoption Distributions](#)

Part 11: [Lifetime Income Disclosure](#)

Part 12: [Part-Time Employee Participation in 401\(k\) Plans](#)

Part 13: [Graduate and Postdoctoral Student Contributions](#)

Part 14: [Disaster Tax Relief](#)

Part 15: [Successor Beneficiary Rules](#)

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We're Becoming FuturePlan by Ascensus

In 2017, Ascensus began expanding its TPA line of business by acquiring quality-focused local TPA firms from coast to coast. As a result of this expansion, we now have more than 1,300 associates serving more than 55,000 plans under the name FuturePlan.

Because we've been mindfully merging new firms into our company to help ensure ongoing quality and smooth service for clients and advisors, the FuturePlan name is being rolled out gradually. You'll continue to see our new name appear more frequently and in more places—in some cases alongside the name of the TPA firm that's been servicing your retirement plan.

Our Legacy of Leadership

Each of these leading TPA firms became part of FuturePlan by Ascensus so that we can deliver unmatched levels of service, innovation, and expertise to an ever-growing client base. By joining forces, we've become the nation's largest retirement TPA while preserving the strength and warmth of our local relationships.




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