

TaxNewsFlash

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Notice 2020-62: Safe harbor explanations about eligible rollover distributions (COVID-19)

The IRS today released an advance version of Notice 2020-62 reflecting modifications to two safe harbor explanations that plan administrators may use to satisfy the requirement under section 402(f) that certain information be provided to recipients of an eligible rollover distribution.

The safe harbor explanations (provided previously by Notice 2018-74) modified today reflect legislative changes, including changes related to the *Setting Every Community Up for Retirement Enhancement Act of 2019* (SECURE Act) and the *Coronavirus Aid, Relief, and Economic Security Act* (CARES Act).

Read [Notice 2020-62](#) [PDF 118 KB]

Background

In general, the plan administrator of a qualified retirement or other eligible plan must provide a written explanation to any recipient of an eligible rollover distribution about the applicable rules.

Notice 2018-74 previously provided two safe harbor explanations that plan administrators could use and that reflected the law as of September 19, 2018:

- One safe harbor explanation for payments not from a designated Roth account
- The other safe harbor explanation for payments from a designated Roth account

Notice 2018-74 provides that the safe harbor explanations may be used by plan administrators and payors to satisfy the requirements of section 402(f) to the extent that the explanations accurately reflect current law.

The SECURE Act added section 72(t)(2)(H) as a new exception to the 10% additional tax under section 72(t)(1) for qualified birth or adoption distributions, and also included an amendment that delays the required beginning date for required minimum distributions to April 1 of the calendar year following the year in which the individual attains age 72 years (rather than 70½) for employees born after June 30, 1949.

The CARES Act permits an individual to receive a “coronavirus-related distribution” from an eligible retirement plan. For these purposes, a coronavirus-related distribution is defined as any distribution from an eligible retirement plan made on or after January 1, 2020, and before December 31, 2020, to a qualified individual, subject to a limitation of no more than \$100,000. A coronavirus-related distribution is not subject to the 10% additional tax under section 72(t)(1). In addition, a coronavirus-related distribution may be included in gross income ratably over the three-year period beginning with the tax year of the distribution.

The CARES Act also provides that a qualified individual may generally re contribute a coronavirus-related distribution (not to exceed the amount of the distribution) to an applicable eligible retirement plan in which the taxpayer is a beneficiary and to which a rollover can be made. However, today’s notice states that a coronavirus-related distribution is not an eligible rollover distribution for purposes of the notice requirement under section 402(f), and the plan administrator is not required to provide a section 402(f) notice.

Safe harbor explanations

Notice 2020-62 includes updated safe harbor explanations that modify the safe harbor explanations in Notice 2018-74 to reflect the legislative changes made by the SECURE Act and the CARES Act.

The safe harbor explanations are included in an appendix to Notice 2020-62.

The updated safe harbor explanations provided by Notice 2020-62 may be used by plan administrators and payors to satisfy section 402(f). Today’s notice includes language that if there is subsequent legislation, the safe harbor explanations provided today will not satisfy section 402(f) to the extent they are no longer accurate because of a change in the relevant law occurring after August 6, 2020.

- The first safe harbor explanation reflects the rules relating to distributions not from a designated Roth account. Thus, the first safe harbor explanation is to be used only for a distribution that is not from a designated Roth account.
- The second safe harbor explanation reflects the rules relating to distributions from a designated Roth account. Thus, the second safe harbor explanation is to be used only for a distribution from a designated Roth account.

Notice 2020-62 states that both explanations are to be provided to a participant if the participant is eligible to receive eligible rollover distributions from both a designated Roth account and an account other than a designated Roth account.

- The safe harbor explanation in Notice 2020-62 for distributions not from a designated Roth account meets the requirements of section 402(f) for an eligible rollover distribution that is not from a designated Roth account if provided to the recipient of the eligible rollover distribution within a reasonable period of time before the distribution is made.
- Similarly, the safe harbor explanation for distributions from a designated Roth account meets the requirements of section 402(f) for an eligible rollover distribution from a designated Roth account if provided to the recipient of the eligible rollover distribution within a reasonable period of time before the distribution is made.

Notice 2020-62 provides that the section 402(f) notice may be provided not less than 30 days (subject to waiver) and as many as 180 days before the date on which the distribution is made (or the annuity starting date). Also, it is stated that a plan administrator or payor may customize a safe harbor

explanation by omitting any information that does not apply to the plan. Examples are provided to illustrate this point.

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