

The IRS Expands Who is a “Qualified Individual” for Retirement Provisions of the CARES Act

By: Alex Mattingly on June 29, 2020 on graydon.law

In our [March Blog post](#), we discussed the relief provisions for participants in defined contribution plans granted by the Congress through the (at the time) newly enacted CARES Act. As you are by now more than likely aware, the CARES Act permitted plan sponsors to make several discretionary amendments, giving participants greater access to their retirement savings, including the special coronavirus-related distributions, increased plan loan limits, and delayed plan loan repayments. The relief provided by these three discretionary amendments (which are all described in more detail in our prior post) was only available for “qualified individuals.” The IRS has recently amended the definition of qualified individual through [Notice 2020-50](#), expanding the relief to cover more individuals.

Under the CARES Act, a qualified individual is defined as a plan participant who:

- Is diagnosed with COVID-19 with a test approved by the CDC;
- Has a spouse or dependent diagnosed with COVID-19; or
- Experiences adverse financial consequences from:
 - being quarantined, furloughed, or laid off;
 - having work hours reduced;
 - being unable to work due to lack of child care; or
 - closing or reducing the hours of a business owned or operated by the individual.

The updated definition increases the list of designated events which can cause adverse financial consequences to make a plan participant a qualified individual. A qualified individual will now include a plan participant that has experienced adverse financial consequences due to a reduction in pay due to COVID-19, a job offer rescission due to COVID-19, or a start date for a job delayed due to COVID-19. In addition, a plan participant can also be a qualified individual if he experiences adverse financial consequences due to a spouse or member of the individual’s household experiencing any of the designated events. A member of the individual’s household is defined as someone who shares the individual’s principal residence.

As a reminder, the CARES Act provides that the administrator can rely on an employee's certification that he or she is a qualified individual, unless the administrator has actual knowledge to the contrary. Notice 2020-50 provides a sample certification that administrators may use. It also clarifies that the requirement that the administrator does not have actual knowledge does not mean that the administrator has an obligation to inquire into whether an individual has satisfied the conditions to be a qualified individual.

Notice 2020-50 will affect how plans administer the discretionary amendments provided by the CARES Act by increasing the number of plan participants that can be qualified individuals. Plan sponsors have until the end of the plan year beginning on or after January 1, 2022 to adopt a retroactive amendment to reflect these changes. If you have questions about this amendment or any other benefit issues, please reach out to any of Graydon's employee benefits attorneys.