



Derrin's Fireside Chat: We CARES




22 April 2020

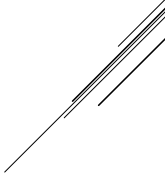

S. Derrin Watson



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Your Co-Hosts

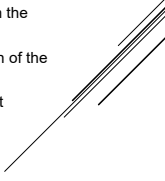

- ▶ Joanne Pecina 
- ▶ Maureen Pesek 
- ▶ Tim McCutcheon 



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During the Webinar

- ▶ All attendees' lines are muted.
- ▶ Question board is available and monitored - look for Q&A icon on webcast toolbar. Please do not use chat to ask questions.
- ▶ Derrin will "roll over" unanswered questions
- ▶ Slides and a recording of the webinar also available on the /webcasts webpage.
- ▶ Please note that you must access the live video portion of the webcast to get CE credit.
- ▶ Merely listening on a call-in line or watching a webcast recording is not sufficient for CE credit.



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During the Webinar



- ▶ Credit is offered for ERPA/ASPPA-ARA/NIPA.
- ▶ Those who attend the requisite time in the video portion of the webcast today will receive a certificate by email in a few days (ERPA will take several days longer). - Please check your spam folder.
- ▶ Questions about CE credit: support@erisapedia.com.
- ▶ After the main presentation please join us for a brief educational session on how to find more information on today's topic on ERISApedia.com.
- ▶ At the end you will be presented with a short Google Forms survey. Please let us know how we are doing.

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Your Presenter Today



S. Derrin Watson, J.D., APM



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Introduction



- ▶ Purpose:
 - ▶ Update on COVID 19 relief and guidance
 - ▶ Answer questions
- ▶ Length: 50 minutes
 - ▶ I won't get to all the questions
 - ▶ We will roll them over
- ▶ If you email me a question, we will put it in the stack for next week
 - ▶ If you want a reply:
 - ▶ Subscribers can use the ASK system
 - ▶ Pay me

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Notice 2020-23

Extensions




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Code §7508A



- ▶ "In the case of a taxpayer determined by the Secretary to be affected by a federally declared disaster . . . or a terroristic or military action . . . , the Secretary **may** specify a period of up to one year that may be disregarded in determining, under the internal revenue laws, in respect of any tax liability of such taxpayer:"
 - ▶ Timeliness of certain acts
 - ▶ Application of interest and penalties

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Rev. Proc. 2018-58 puts meat on the bones

- ▶ What to expect:
 - ▶ IRS will issue guidance
 - ▶ Outlining start and end of delay period
 - ▶ Specifying affected taxpayers
 - ▶ Specifying actions postponed:
 - ▶ Usually it's all items listed in the Rev. Proc.
 - ▶ List of items that can be extended
 - ▶ 44 items related to employee benefits!

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Notice 2020-23

- ▶ Who gets it: Everyone performing a time-sensitive action specified in the regulations or Rev. Proc. 2018-58
- ▶ When does it start? April 1, 2020
- ▶ When does extension end? July 15, 2020
- ▶ IRS could extend it further; will depend on developments

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Tax return deadlines extended

- ▶ 1040, 1041, 1065, 1120
 - ▶ Which extends deduction deadline
- ▶ 5500 deadline extended; 8955-SSA too
 - ▶ Doesn't help calendar year taxpayers
 - ▶ Example: PYE June 30, 2019
 - ▶ Due date January 31, 2020
 - ▶ Filed 5558: Extended to April 15, 2020
 - ▶ Automatic extension to July 15, 2020

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Retirement plan delays: Loans


- ▶ Participant loans
 - ▶ Postpones 5-year deadline if during relief period
 - ▶ Postpones deemed distribution for late payments
 - ▶ Cure period applies
 - ▶ Even for persons other than qualified individuals
- ▶ Example:
 - ▶ Participant loan taken 2/1/2017
 - ▶ Participant misses April 15, 2020 payment
 - ▶ Payment due July 15, 2020
 - ▶ Cure period ends December 31, 2020
 - ▶ 5-year deadline still ends 2/1/2022



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RMD deadline


- ▶ CARES already waives April 1, 2020 RMD payment
 - ▶ Applies to IRAs, DC plans, 403(b), and gov't 457(b)
- ▶ CARES didn't waive it for DB or tax-exempt 457(b)
 - ▶ April 1 deadline extended to July 15, 2020



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Other distribution deadlines

- ▶ Deadline to distribute excess deferrals
 - ▶ Mary, 47, deferred \$20,000 in 2019
 - ▶ Normal deadline to return 402(g) excess is April 15
 - ▶ Extended to July 15, 2020
- ▶ Deadline for ADP/ACP corrections
 - ▶ Three deadlines extended from April 1 to July 15
 - ▶ 12 months to correct ADP/ACP failures outside of EPCRS
 - ▶ 2½ months to make ADP/ACP refunds without 10% penalty
 - ▶ 6 months to distribute ADP/ACP in EACA



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Rollover deadline



- ▶ 60-day rollover deadline extended
- ▶ Example:
 - ▶ Mark (not qualified individual), received RMD February 1, 2020 from DC plan
 - ▶ Rollover deadline was April 1, 2020
 - ▶ Extended to July 15, 2020

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Specific Retirement Deadlines Postponed



- ▶ Remedial amendment period
 - ▶ But not interim and discretionary amendment deadlines
- ▶ Plan contribution deadline
 - ▶ But not deadline to make safe harbor 401(k) contributions or give SH notices
- ▶ Distribution of nondeductible contributions
- ▶ Self-correct significant operational failures
- ▶ Elect permissible withdrawal from a EACA

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Other IRA Related Deadlines Extended



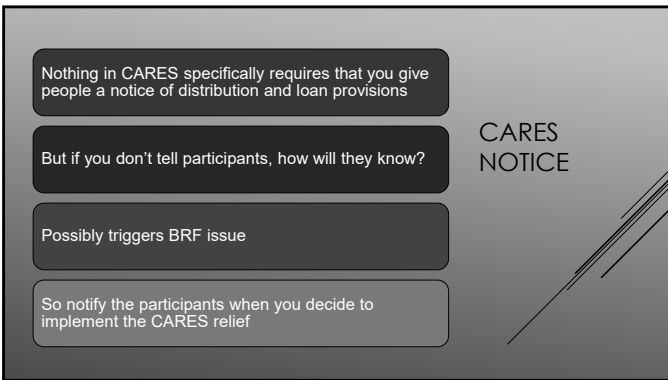
- ▶ IRA Home Purchase Deadline (or roll)
- ▶ Repay Qualified Reservist Distribution
- ▶ Deadline to roll plan qualified plan loan offset
- ▶ IRA recharacterization
- ▶ Distribute excess contributions



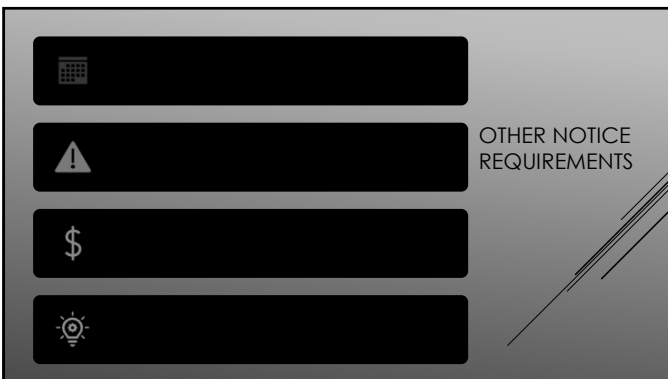
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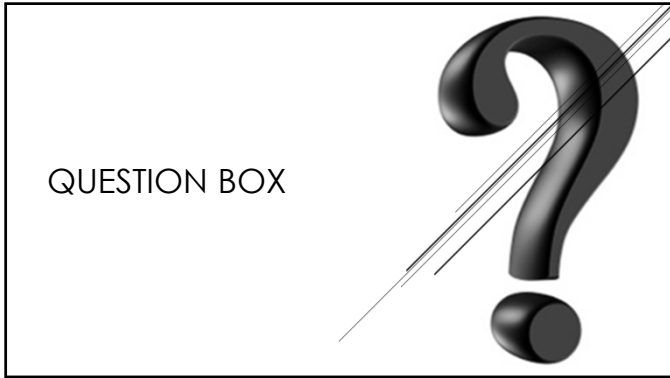
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Questions

- ▶ Can you roll over a CRD from a Roth account?
 - ▶ Yes
- ▶ Can you convert a CRD to a Roth IRA?
 - ▶ Yes
- ▶ Can you make unallocated contributions to a DC plan?
 - ▶ Yes, but they need to be allocated this year
- ▶ How do we use the favorable tax treatment for CRDs?
 - ▶ 8915-B is the most recent version of the form
- ▶ Any idea what guidance we will see from the IRS?
 - ▶ Check out WRERA guidance: Notice 2009-82
 - ▶ And KETRA guidance: Notice 2005-92

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What is a safe harbor suspension/exit

- ▶ Any midyear reduction in safe harbor contributions
 - ▶ Discontinuing future safe harbor contributions
 - ▶ Reducing rate of safe harbor contributions; for example:
 - ▶ Amending from 100% of deferrals up to 5% of comp to basic match
 - ▶ Reducing match from annual match (with true up) to payroll period match
 - ▶ You can delay contributing so long as you don't change the rate
- ▶ If you suspend or reduce
 - ▶ Must give 30 days advance notice
 - ▶ Must pass ADP/ACP full year with current year testing
 - ▶ Lose top heavy exemption
 - ▶ Must contribute full amount up through later of 30 days after notice or date amendment is signed
- ▶ It is possible Congress may give relief

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Certification



- ▶ Do I need to have the participant sign a certificate if I terminated his or her employment because of COVID 19?
 - ▶ No; but it never hurts to have the proof
- ▶ What if I know the participant's certification is false?
 - ▶ How do you know that?
 - ▶ Example: I work two jobs and get laid off from the "other one"
- ▶ Cut in employee pay doesn't make EE qualified individual
 - ▶ Cut in hours does; could be reduction in overtime hours
- ▶ I've seen language that allowed for distributions based upon "other factors as determined by the Secretary of the Treasury." If the spouse's job loss was the result of cut-backs due to the current quarantines around the country, could that be part of that "other factors" option?
 - ▶ Yes, but only if the IRS announces it is so


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Amendments



- ▶ Do we need to amend to authorize CRDs?
 - ▶ If you want to make a distribution that is otherwise unavailable, yes
- ▶ Do we need to amend to authorize the higher loan limits; extensions?
 - ▶ If you want to authorize them, you'll need to amend the plan or loan policy
- ▶ Do we have to amend before we start using CRDs/loans?
 - ▶ No; you can wait until 2022 (or date of plan termination)

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MORE
QUESTIONS

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Thank you!



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- ▶ Check for my books at ERISApedia.com
 - ▶ Who's the Employer
 - ▶ 403(b) Plan eSource
 - ▶ 457 Plan eSource
 - ▶ Plan Correction eSource
 - ▶ With Ilene Ferenczy and Alison Cohen

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CE Credit



- ▶ Credit is offered for ERPA/ASPPA-ARA/NIPA
- ▶ Those that attended the requisite time in the live video portion of the webcast today will receive a certificate by email in a few days (ERPA will take longer).
- ▶ Please check spam folder.
- ▶ Any questions? Email: support@erisapedia.com.
- ▶ After the webcast you will be presented with a short Google Forms survey. Please let us know how we are doing.

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For Further Study



Joanne Pecina will demonstrate how to find more information on today's topic from the ERISApedia.com resources.

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