

April 2020

## IRS Extends Deadlines for Certain Retirement Plan and IRA Transactions

On April 9, 2020, the Internal Revenue Service (IRS) released Notice 2020-23, which extends deadlines for certain actions that are otherwise due to be performed between April 1, 2020 and July 14, 2020, and sets the new due date for those actions as **July 15, 2020**. The IRS has the authority to grant these extensions pursuant to the March 13, 2020 presidential declaration of an emergency under the Robert T. Stafford Disaster Relief and Emergency Assistance Act. This is separate and distinct from relief provided under the CARES Act.

### Retirement plan transactions covered by the IRS's extension of time

The following provides a summary of the key retirement plan action deadlines extended to July 15, 2020 under this IRS guidance:

#### Loan Repayments

The due dates for making plan loan repayments for plan participants in 401(a), 401(k), 403(b), and governmental 457(b) plans was extended, regardless of whether the plan participant has been affected by COVID-19. For payments originally due from April 1 to July 14, 2020, the due dates can be extended to July 15, 2020. This payment extension is different from the CARES Act Suspension of Loan Repayment provision. The CARES Act provision allows for the suspension of repayments due through December 31, 2020 for up to one year and is only available to participants impacted by COVID-19.

- Careful consideration should be given as to whether employers should allow participants to take advantage of extending their loan repayments. Any loan repayments not made as originally scheduled from April 1 to July 14, 2020 would need to be paid by July 15, 2020, subject to any applicable cure period, or the loan will be subject to the normal default provisions of the loan program. If an employer is considering offering this payment flexibility, we recommend having a conversation with their payroll provider (if loans are payroll deduct) and Voya to ensure the appropriate support can be provided.
- Plan participants should consider their financial ability to make any deferred loan repayments by July 15, 2020, including the potential impact of defaulting on those loan repayments on a participant's retirement planning objectives.

**Corrective distribution of excess deferrals from a 401(k) or 403(b) plan:** Excess deferrals and attributable earnings ordinarily must be distributed from a plan by April 15 following the year in which the deferral was made. If a corrective distribution was required to be made between April 1, 2020 and July 14, 2020, the due date is extended to July 15, 2020.

**Corrective distribution of excess contribution amounts following a failed ADP test:** Ordinarily, excess contributions following a failed ADP test must be distributed by the end of the plan year following the plan year in which the deferrals were made to correct a 401(k) plan's failed ADP test. If a corrective distribution was required to be made between April 1, 2020 and July 14, 2020, the due date is extended to July 15, 2020.

**Corrective distribution of excess aggregate contribution amounts following a failed ACP test:** Excess aggregate contribution amounts and attributable earnings ordinarily must be distributed by the end of the plan year following the plan year in which matching contributions and/or employee non-Roth after-tax contributions were made. If a corrective distribution was required to be made between April 1, 2020 and July 14, 2020, the due date is extended to July 15, 2020.

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**Indirect rollovers:** Rollovers to another eligible retirement plan must be made no later than 60 days from receipt of the rollover eligible distribution. The extension permits rollover eligible distributions received between February 1, 2020 and May 14, 2020 to be indirectly rolled over until July 15, 2020 without regard to the normal 60-day limitation.

**IRS Form 5500 (annual return/annual report of employee benefit plan) for ERISA 401(a), 401(k) and 403(b) plans:** Ordinarily IRS Form 5500 must be filed by the last day of the 7<sup>th</sup> month following the close of the plan year. (Note: that, to date, the IRS has not yet provided relief for the Form 5500 Annual Return/Annual Report for calendar year plan years ending December 31, 2019. If a Form 5500 was required to be filed between April 1, 2020 and July 14, 2020, the due date is extended to July 15, 2020. Absent additional relief, the deadline for Form 5500 Annual Return/Annual Report returns for calendar-year plans remains July 31, 2020).

**Deductible contributions for 401(a) and 401(k) plans:** The deadline for a for-profit employer to make deductible contributions is ordinarily not later than the due date for the employer's filing of its federal tax return. If the employer's federal tax return filing date was between April 1, 2020 and July 14, 2020, the due date for contributions is extended to July 15, 2020.

**Self-correction of operational defects under the IRS' Employee Plans Compliance Resolution System (EPCRS):** Ordinarily, most operational defects must be corrected by the last day of the second plan year following the plan year for which the failure occurred. If the correction period would have ended between April 1, 2020 and July 14, 2020, the correction period date is extended to July 15, 2020.

**Substantially equal periodic payments:** Periodic payments that are substantially equal satisfy an exception to the IRS 10% premature distribution penalty tax, provided that they are made at least annually over the employee's life/life expectancy (or, if applicable, over the joint lives/joint life expectancies of the employee and designated beneficiary). To the extent that payments are delayed between April 1, 2020 and July 15, 2020, the exception to the IRS 10% premature distribution penalty tax will still apply.

### **IRA transactions covered by the IRS's extension of time**

IRA owners have additional time to make the 2019 contribution and to roll over indirectly eligible amounts (including waived 2020 RMDs). IRA owners may appreciate the July 15, 2020 extension for making corrective distributions of excess amounts contributed to their IRAs.

The IRS has extended the following IRA deadlines until **July 15, 2020**:

**IRA contributions attributable to 2019 tax year:** Ordinarily, individuals must contribute to their traditional and Roth IRA contributions for the 2019 tax year by the due date (without regard to extensions) for filing the 2019 federal individual income tax return (i.e., April 15, 2020). Contributions attributable to the 2019 tax year can be made until July 15, 2020.

**Indirect rollovers:** Rollovers to another eligible retirement plan must be made no later than 60 days from receipt of the rollover eligible distribution. The extension permits rollover eligible distributions received between February 1, 2020 and May 14, 2020 to be indirectly rolled over until July 15, 2020 without regard to the normal 60-day limitation.

**Corrective distribution of excess contribution to IRAs:** Ordinarily, excess IRA contributions (including attributable earnings) must be distributed by the due date (including any extensions) for filing the individual's federal individual income tax return (e.g., April 15, 2020). The correction due date is extended to July 15, 2020.

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**IRS Form 5498 (IRA Contribution Information):** IRS Form 5498 normally must be filed by the IRA vendor with the IRS and sent to the IRA account owner by June 1 following the year in which IRA contributions were made for each individual for whom the vendor maintains an IRA. The filing due date is extended to July 15, 2020.

**Recharacterization of IRA Contributions:** The regular deadline for recharacterizing a nonrollover contribution made to a Roth IRA or to a traditional IRA as having been made to the traditional IRA is the due date (including any extensions) for filing the individual's federal individual income tax return. If the recharacterization would have been required by April, 2020, the recharacterization deadline was extended to July 15, 2020.

**SIMPLE IRA Deductible Contributions:** Ordinarily, a for-profit employer must make deductible contributions to its SIMPLE IRA plan no later than the employer's federal tax return filing date. If the date for making the deductible contributions would have ended between April 1, 2020 and July 14, 2020, the deductible contribution period is extended to July 15, 2020.

**Substantially Equal Periodic Payments:** Periodic payments that are substantially equal satisfy an exception to the IRS 10% premature distribution penalty tax, provided that they are made at least annually over the employee's life/life expectancy (or, if applicable, over the joint lives/joint life expectancies of the employee and designated beneficiary). To the extent that payments are delayed between April 1, 2020 and July 15, 2020, the exception to the IRS 10% premature distribution penalty tax will still apply.

### **The IRS relief does not provide relief for ERISA deadlines for plans subject to ERISA**

The IRS does not have authority to provide relief for ERISA deadlines under Title I of ERISA. The Department of Labor (DOL) has the authority to provide such relief from such deadlines for up to one year, in accordance with the terms of the CARES Act. To date, the DOL has not issued such relief.

Voya will continue to monitor DOL guidance and will update Q&As accordingly if/when such guidance is issued.

### **IRS Notice 2020-23 cannot be applied to any other tax relief not specifically mentioned in that Notice**

The IRS notes that Notice 2020-23 is limited only to the relief explicitly provided and does not apply to any other type of federal tax, any other type of federal tax return, or any other time-sensitive act.

### **The IRS extension applies to plans under IRS audit**

The IRS recognizes that, both IRS employees and plan sponsors may be unable to access documents, systems or other resources necessary to timely perform an audit of an employer's retirement plan.

As a result, the IRS has granted a 30-day postponement for time-sensitive IRS actions (including audit activity) if the last date for performance of the action is on or after April 6, 2020, and before July 15, 2020. The IRS reserves the right to provide an additional postponement, as appropriate.

Voya will continue to closely monitor any additional IRS and DOL guidance.

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