



IRS updates Operational Compliance List for retirement plans through 2022

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IRS recently updated its [Operational Compliance List](#) (OC List) for qualified retirement and 403(b) plans to identify changes in law and guidance affecting plan operations. The OC List doesn't provide a comprehensive inventory of every item of IRS guidance or new legislation, but reminds plan sponsors about revised operational requirements taking effect during a calendar year, even if conforming amendments are due later. This update to the OC List is the first since June 2020, and notes several revised operational requirements for 2020, along with a few changes taking effect in 2021 and 2022.

Items added for 2020

Last year, IRS added changes made by the Setting Every Community Up for Retirement (SECURE) Act ([Division O of Pub. L. No. 116-94](#)) and the Bipartisan American Miners Act of 2019 ([Division M of Pub. L. No. 116-94](#)) to the 2020 OC List. This year, IRS updated the 2020 list to cover additional clarifications issued in [Notice 2020-68](#) and [Notice 2020-86](#). The 2020 list also now includes changes for the Coronavirus Aid, Relief and Economic Security (CARES) Act ([Pub. L. No. 116-136](#)) and the additional relief enacted by the 2021 Consolidated Appropriations Act ([Division EE of Pub. L. No. 116-260](#)).

SECURE Act and Miners Act changes

- Clarifications in Notice 2020-68 relating to:
 - Qualified birth or adoption distributions
 - Foster care difficulty-of-care payments treated as eligible Section 415 compensation
 - Anti-cutback relief for SECURE Act and Miners Act amendments
 - Reduction in the minimum age for in-service distributions from qualified pension and governmental 457(b) plans from 62 to 59-1/2

- Clarifications in Notice 2020-86 relating to:
 - Increased maximum permissible automatic deferral rate under a qualified automatic contribution arrangement (QACA) from 10% to 15% after the first full plan year of participation
 - Relaxed rules for safe harbor nonelective contributions (NECs), including revised requirements for the safe harbor notice and the ability to add safe harbor NECs retroactively
- Clarifications in [Rev. Rul. 2020-23](#) on distributions-in-kind from custodial accounts in terminating 403(b) plans

CARES Act changes

- Coronavirus-related distributions from retirement plans in 2020 and relaxed plan loan rules for certain individuals affected by the pandemic, reflecting additional guidance in [Notice 2020-50](#)
- Waiver of most required minimum distributions from defined contribution plans in 2020, reflecting additional guidance in [Notice 2020-51](#)
- Expansion of cooperative and small-employer charity pension plan rules to certain additional employers

2021 Consolidated Appropriations Act

- Temporary relief from partial plan termination rules for retirement plan sponsors with large workforce reductions for any plan year including the period March 13, 2020, through March 31, 2021, if the employee counts were mostly restored by the end of the period (although not mentioned on the OC List, IRS recently issued [Q&As](#) on this relief)
- Special rules giving access to retirement plan savings for participants affected by major disasters (other than the pandemic) declared during 2020 and early 2021
- In-service distributions at age 55 for participants in certain long-standing multiemployer plans in the building and construction industry

Other 2020 changes

- Temporary relief during the pandemic from the physical-presence requirements for spousal consents and certain other elections by retirement plan participants, as provided for 2020 in [Notice 2020-42](#)
- Guidance in [Notice 2020-52](#) on suspending or reducing safe harbor matching contributions to 401(k) plans

Items added for 2021 and 2022

The update includes two changes effective in 2021 and one in 2022:

- Participation in 401(k) plans by long-term, part-time employees for plan years beginning after Dec. 31, 2020, as provided in the SECURE Act and reflecting guidance in Notice 2020-68
- Further extension through June 30, 2021, of relief from the physical-presence requirements for spousal consents and certain other elections by retirement plan participants, as provided by [Notice 2021-03](#)

- Updates to the life expectancy and distribution period tables used to calculate required minimum distributions, effective for distributions in calendar years beginning on or after Jan. 1, 2022

Related resources

Non-Mercer resources

- [Operational Compliance List](#) (IRS)
- [Recent Published Guidance](#) (IRS)

Mercer Law & Policy resources

- [IRS releases new guidance for terminating 403\(b\) plans](#) (Jan. 22, 2021)
- [Virus aid bill offers help for retirement plans, student loans](#) (Jan. 6, 2021)
- [IRS OKs witnessing retirement plan elections, spousal consent by video](#) (Dec. 29, 2020)
- [IRS issues Q&As on SECURE Act safe harbor 401\(k\) plan changes](#) (Dec. 21, 2020)
- [IRS updates mortality tables for required minimum distributions](#) (Nov. 12, 2020)
- [IRS issues FAQs on SECURE and Bipartisan American Miners acts](#) (Sept. 22, 2020)
- [IRS updates Operational Compliance List for retirement plans](#) (July 30, 2020)
- [Offering CARES Act distributions to defined benefit plan participants](#) (July 14, 2020)
- [Suspending 401\(k\) match raises compliance issues](#) (June 30, 2020)
- [Administering CARES Act's waiver of 2020 RMDs from DC plans](#) (June 25, 2020)
- [SECURE, CARES acts change rules on required minimum distributions](#) (April 7, 2020)

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