

EB Flash: IRS Finalizes Rollover Rules For Qualified Plan Loan Offset Amounts

Employee Benefits Alert
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On December 7, 2020, the Internal Revenue Service (IRS) released [final regulations](#) on the extended rollover period for [qualified plan loan offset amounts](#) under [Internal Revenue Code section 402\(c\)](#).

In general, a plan loan offset occurs when an employee's plan account is reduced, or offset, to repay a plan loan. Unlike a deemed distribution, an offset cannot take place until the employee has a distributable event, and therefore might occur in connection with the employee's termination of employment or request for a distribution. The rollover provisions under Code section 402(c) allow the employee (or a spousal distributee) to roll over the offset amount to an IRA or an eligible employer-sponsored retirement plan, provided the rollover is completed within 60 days.

The 2017 Tax Cuts and Jobs Act (TCJA) extended the 60-day rollover deadline for "qualified plan loan offset" (QPLO) amounts to the due date of the individual's tax return (including extensions) for the year in which the plan loan offset occurred.

Under Code section 402(c), as amended by TCJA, a QPLO is an offset that occurs when a plan terminates or when the employee fails to repay the loan in accordance with its terms because of the employee's severance from employment. Under the final regulations, an offset because of the employee's severance from employment is a QPLO only if it occurs within the one-year period beginning on the employee's severance from employment. The loan must have met the requirements of [section 72\(p\)\(2\)](#) at the participant's severance from employment (*e.g.*, not previously treated as a deemed distribution).

Accordingly, where a plan allows employees to continue loan repayments following termination of employment until the employee takes a distribution, the timing of the employee's distribution will determine whether the offset is eligible for the extended QPLO rollover deadline: An employee who takes a distribution within one year of his or her termination would have the extended QPLO rollover period, while an employee who leaves his or her account in the plan for more than one year would not.

The final regulations impact a plan's reporting and disclosure obligations and therefore, are unlikely to require a plan amendment. Plan administrators are responsible for reporting QPLOs on Form 1099-R (which was updated in 2018 to include a new Box 7 code "M" for QPLOs) and will need to report QPLOs on and after January 1, 2021 consistent with the final regulations. However, taxpayers (and plan administrators) may apply the final regulations to QPLO offset amounts on and after August 20, 2020.

The IRS safe harbor section 402(f)/rollover notice (currently [Notice 2020-62](#)) was previously updated in 2018 to address the extended rollover deadline for QPLOs, but may be further updated to reflect the one-year post-severance rule in the final regulations. Similarly, if a plan's summary plan description, loan policy, or other communications address an employee's ability to roll over an offset amount, those documents should be reviewed to determine if any updates are needed.

The 24-page text of the final regulations is [posted here](#).

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