

EB Flash: IRS Issues 2020 Required Amendments List for Individually-Designed Qualified and 403(b) Retirement Plans

Employee Benefits Alert

11.23.2020

On Friday, November 20, the Internal Revenue Service (IRS) issued [Notice 2020-83](#), the 2020 Required Amendments List (2020 RA List) for individually-designed retirement plans under Internal Revenue Code section 401(a) and section 403(b). While only two changes are included on the 2020 RA List, it does not purport to address all qualification changes affecting retirement plans this year.

Required Amendments Included in the 2020 RA List

The annual IRS Required Amendments List describes required qualification amendments for statutory and administrative changes that are first effective during the year it is published, along with the deadline for adopting those amendments (generally no earlier than the end of the second calendar year following publication of the list).

The 2020 RA List contains no required qualification amendments for most plans. However, some plans may need to be amended by December 31, 2022 to include "difficulty of care" payments (payments by an employer to an employee for qualified foster care) in the plan's definition of Section 415 compensation, pursuant to the [Setting Every Community Up for Retirement Enhancement \(SECURE\) Act, section 116](#). Guidance on difficulty of care payments can be found in [Notice 2020-68](#).

In addition, defined benefit plans of certain charitable employers may need to reflect the application of cooperative and small employer charity pension plan funding-related rules, pursuant to the [Coronavirus Aid, Relief, and Economic Security \(CARES\) Act, section 3609](#).

Required Amendments Not Included in the 2020 RA List

The 2020 RA List is not all-inclusive of every qualification change that became effective this year. It does not include required amendments that are effective in 2020 but for which Treasury and IRS anticipate issuing guidance. Thus, the omission of certain SECURE Act provisions that became effective this year, such as changes to the required beginning date for mandatory distributions ([SECURE Act section 114](#)) and the modification of the minimum distribution rules for death benefits payable to beneficiaries ([SECURE Act section 401](#)), suggests that much-needed guidance on those provisions is forthcoming.

The 2020 RA List also does not include statutory and administrative changes that are permissive (optional) rather than mandatory. Thus, the 2020 RA List does not reflect the ability of plan sponsors to offer penalty-free retirement plan withdrawals for qualified birth or adoption expenses ([SECURE Act section 113](#)). Guidance on qualified birth and adoption expenses can be found in [Notice 2020-68](#). Moreover, the 2020 RA List does not reflect required amendments to plans that provided coronavirus-related distributions or coronavirus-related loan relief to participants (CARES Act section 2202) or temporary waivers of required minimum distributions for 2020 (CARES Act section 2203). Guidance on these optional provisions can be found in [Notice 2020-50](#) and [Notice 2020-51](#).

Generally, plan sponsors have until the last day of the first plan year beginning on or after January 1, 2022 to amend their plans to reflect SECURE Act and CARES Act changes. (The deadline is January 1, 2024 for governmental plans and, for the SECURE Act, collectively-bargained plans.)

IRS Operational Compliance List Supplements the Required Amendments List

The IRS maintains an [Operational Compliance List](#) (OC List), which is intended to help plan sponsors ensure their plans are

operationally compliant with changes in law. The IRS updates the OC List periodically to reflect new legislation and IRS guidance. While a helpful resource to supplement the Required Amendments List, it is not a comprehensive list of every item that could affect a particular plan. For this, there is no substitute for consulting with tax/benefits counsel.

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