Steve Sisolak
Governor

Laura E. Freed
Director

Colleen Murphy
Deputy Director

Rob Boehmer
Executive Officer

STATE OF NEVADA DEPARTMENT OF ADMINISTRATION

PUBLIC EMPLOYEES' DEFERRED COMPENSATION PROGRAM
100 N. Stewart Street, Suite 100 | Carson City, Nevada 89701
Telephone 775-684-3398 | Fax 775-684-3399 | defcomp.nv.gov

NOTICE OF PUBLIC MEETING

NEVADA PUBLIC EMPLOYEES' DEFERRED COMPENSATION COMMITTEE

Monday, April 13, 2020
9:00 a.m.

Pursuant to Declaration of Emergency Directive 006 from Governor Sisolak dated March 22, 2020, this special Nevada Deferred Compensation Committee Meeting will be held by teleconference.

Teleconference Access:
Please dial in using your phone
US Toll Free: 888 808 6929
Access Code: 4157280

Note: Persons may attend the meeting and provide testimony through a teleconference call or by providing written testimony via email to msalerno@defcomp.nv.gov .

Below is an agenda of all items to be considered. All items which are potential action items are noted as such. Items on the agenda may be taken out of order, combined for consideration, or removed from the agenda at any time at the discretion of the Committee.

AGENDA

1. Call to Order/Roll Call and establish Quorum

2. *Public comment is welcomed by the Committee. The NDC Committee may (1) address agenda items out of sequence to accommodate persons appearing before the Panel or to aid the efficiency or effectiveness of the meeting; (2) combine items for consideration by the public body; and (3) pull or remove items from the agenda at any time. The Panel may convene in closed session to consider the character, alleged misconduct, professional competence or physical or mental health of a person. See NRS 241.030.Public comment will be limited to five minutes per person and comments based on viewpoint will not be restricted. A public comment time will be available prior to any action items on the agenda and on any matter not specifically included on the agenda prior to adjournment of the meeting. At the discretion of the Chair, additional public comment may be heard when that item is reached. The Chair may allow additional time to be given a speaker as time allows and at his/her sole discretion. (NRS 241.020, NRS 241.030) Prior to the commencement and conclusion of a contested case or a quasi-judicial proceeding*

that may affect the due process rights of an individual, the Committee may refuse to consider public comment. (NRS 233B.126).

3. For Possible Action- Approval of Nevada Public Employees' Deferred Compensation Program (NDC) Committee (Committee) meeting minutes for public meeting held on March 5, 2020.

4. For Possible Action- Receive, discuss and potentially take action on Optional provisions afforded and identified in the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) to all Defined Contribution Plan Sponsors identified below:

    a. <u>Coronavirus Related Distribution (CRD's) from Certain Retirement Plans- A plan participant or IRA owner may take a coronavirus related distribution from a 401(a), 401(k), 403(b), or governmental 457(b) plan or from a traditional IRA beginning March 27, 2020 and before December 31, 2020 due to</u>:
        i. Individual being diagnosed with the virus SARS-CoV-2 or with coronavirus disease 2019 (COVID-19) by a test approved by the Centers for Disease Control and Prevention;
        ii. Individual's spouse or dependent being diagnosed with such virus or disease by such a test; or
        iii. Individual experiencing adverse financial consequences as a result of:
            1. Being quarantined, furloughed or laid off or having work hours reduced due to such virus or disease;
            2. Being unable to work due to lack of childcare due to such virus or disease, closing or reducing hours of a business owned or operated by the individual due to such virus or disease; or
            3. Meeting such other factors as may be issued in Treasury guidance.

    b. <u>Plan Loan Relief</u>:
        i. A participant who satisfies the eligibility requirements for a Coronavirus Related Distribution:
            1. May take a loan from a 401(a), 401(k), 403(b), or governmental 457(b) plan during the 180-day period beginning on March 27, 2020 of up to the lesser of $100,000 (taking into account the outstanding balance of all other loans taken from plans of the employer) or 100% of the non-forfeitable value of the participant's account under the plan (note existing outstanding loan amounts and number of loans permitted under the plan will serve to decrease the amount available); and
            2. May delay repayment of a new or existing loan from a 401(a), 401(k), 403(b), or governmental 457(b) plan for a period of one year for loan repayments outstanding on March 27, 2020 through December 31, 2020. The delay of the loan repayment will not cause the loan to fail to meet the Internal Revenue Code requirements for the maximum five-year loan term for nonresidential loans or substantially level re-amortized payment schedule. Once repayments recommence, they will be adjusted to reflect the delay, including accrued interest.

    c. <u>Waiver of Required Minimum Distribution (RMD) from Certain Defined Contribution Plans and traditional IRAs for 2020 Calendar Year</u>
        i. RMDs are waived for all participants and beneficiaries in 2020 from accounts within a defined contribution 401(a) or 401(k) plan, defined contribution 403(b) plan, or a defined contribution governmental 457(b) plan, or a traditional IRA. Voya will automatically waive Required Minimum Distributions (RMDs) for 2020 unless otherwise directed.

5. Committee Members comments

6. Updates from contracted Investment Consultant

7. Update from contracted Recordkeeper

8. Administrative Staff/Department of Administration Updates

9. *Public comment is welcomed by the Committee. Public comment will be limited to five minutes per person and comments based on viewpoint will not be restricted. A public comment time will be available prior to any action items on the agenda and on any matter not specifically included on the agenda prior to adjournment of the meeting. At the discretion of the Chair, additional public comment may be heard when that item is reached. The Chair may allow additional time to be given a speaker as time allows and at his/her sole discretion. (NRS 241.020, NRS 241.030) Prior to the commencement and conclusion of a contested case or a quasi-judicial proceeding that may affect the due process rights of an individual, the Committee may refuse to consider public comment. (NRS 233B.126).*

10. Adjournment

Meeting agendas are available for download at the NDC website: http://defcomp.nv.gov/, and Nevada Public Notice Website: www.notice.nv.gov. Anyone desiring the agenda or supporting materials regarding any NDC Committee meeting is invited to email Micah Salerno at deferredcomp@defcomp.nv.gov .

THIS MEETING HAS BEEN PROPERLY NOTICED AND POSTED ON THE FOLLOWING WEB SITES:
Nevada Department of Administration- Public Employees' Deferred Compensation Program website: http://defcomp.nv.gov/Meetings/2020/2020/

Nevada Public Notice Web Site: https://notice.nv.gov/

This Notice of Public Meeting and Agenda have been sent to all members of the Committee and other interested persons who have requested a notice and agenda from the Committee. Persons who wish to continue to receive notice of meetings must renew the request every six months after the first request is made because "[a] request for notice lapses 6 months after it is made." NRS 241.020(3)(c).

We are pleased to make reasonable accommodations for members of the public who are disabled and would like to attend the meeting. If special arrangements for the meeting are required, please notify the Deferred Compensation Administrative office at 100 North Stewart Street, Suite 100, Carson City, Nevada, at least one week before the meeting or call (775) 684-3398 or 3397, or you can fax your request to (775) 684-3399.

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DEFERRED COMPENSATION COMMITTEE
QUARTERLY MEETING MINUTES

March 5, 2020

The quarterly meeting of the Deferred Compensation Committee was held on Thursday, March 5, 2020, at 9:00 a.m. in the Nevada State Library & Archives Building, 100 North Stewart Street, Boardroom, Carson City, Nevada. Attendees participated in person and by teleconference.

A copy of meeting material including this set of meeting minutes, the agenda, and other supporting material, is available on the Nevada Deferred Compensation (NDC) website at: http://defcomp.nv.gov/Meetings/2020.

COMMITTEE MEMBERS
Kent Ervin
Matt Kruse
Debbie Bowman, Vice Chair

OTHERS PRESENT
Bishop Bastien, Voya
Rob Boehmer, NDC Executive Officer
Gail Burchett, Purchasing
Rodney Neufeld, Participant
Amanda Osborne, Elko County (by phone)
Dianna Patane, Voya
Frank Picarelli, Segal Marco
Henna Rasul, Sr. Deputy Attorney General
Micah Salerno, NDC Admin. Assistant
Audrey White, Hyas Group (by phone)
Peter Winterbottom, Voya

1. Call to Order/Roll Call

   Vice Chairwoman Bowman called the quarterly meeting to order for the Nevada Deferred Compensation (NDC) Committee at 9:01 a.m. on Thursday, March 5, 2020.

   Mr. Boehmer took roll and determined a quorum was present. He noted there were two vacancies on the NDC Committee. He also confirmed the meeting was properly noticed and posted.

   Vice Chair Bowman recognized those participating by telephone.

2. Public Comment

   Mr. Rodney Neufeld, State employee and NDC participant, addressed the Committee about the current limit on the Self-Directed Brokerage Account (SDBA). Since the asset-based charge had been eliminated with the new contract he was requesting that the limit be increased. Employee driven should be just that, by putting limits it came across that the powers that be knew what was best for participants. He understood the concern for participants losing money, but it was money they had worked for. You could not protect people from the choices they made, just give the clients the tools and resources they need and be there to answer questions that arise. Mr. Neufeld was impressed with the SDBA and Voya and appreciated all the hard work done so far, but he believed participants should be allowed to make their own choices and he would like more control of his own money.

Vice Chair Bowman noted some items would be taken out of order.

6. <u>For Possible Action- Receive and approve Investment Consultant's review of report from Recordkeeper, performance of investment options, and Fund Watch List for the fourth quarter ending December 31, 2019.</u>

Mr. Picarelli commented about the unprecedented swings in the market caused by the Corona virus. It was causing major concerns around the global economy, trade, consumer spending, and corporate profitability. On pages 2-18 he reviewed the financial markets from the Analysis of Investment Performance Report for fourth quarter 2019. The executive summary from page 20 showed the Voluntary Plan assets were at $890.8 million which was an increase of $39.6 million over the quarter. The FICA Plan had $45.1 million in assets, so total Plan assets were $935.9 million. The loan program had 557 issued to date with an outstanding balance of $3.5 million. The largest amount of Plan assets was invested in the Stable Value Fund representing $317.4 million (35.6%) and the Target date funds' assets totaled $185.4 million (20.8%). As of December 31, 2019, the projected total annual funding requirement for the Plan was $872,082 based on 8 basis points fees on the variable assets per the Voya contract for $455,648 and the Plan administration budget of $416,434. The fee model revenue was projected at $893,458 derived from the 8 basis points from the Voya contract, $25 new loan charge, and the $30 per participant charge. The projected revenue would be over the funding requirement by $21,376 as of December 31, 2019.

Mr. Picarelli reviewed the Watch list on page 25 noting that two funds would be removed following the fund change. Continuing on page 28 Mr. Picarelli reviewed the fee level analysis for the total plan. Through the recordkeeper RFP process the overall pricing for the program was enhanced. Page 29-51 showed plan activity, loan and Roth data, FICA plan activity, and Voya Fixed Account information. Referring to pages 53-58, Mr. Picarelli completed his report with the fund performance review.

Motion by Dr. Ervin to accept the fourth quarter Investment Consultant report and Watch List. Second by Mr. Kruse, motion passed unanimously, 3-0.

3. <u>For Possible Action- Pertaining to RFP #08DOA-S935- Investment Consulting Services: receive Letter of Intent to Award from State Purchasing. The Committee must act pursuant to NRS 287.338.</u>
   a. <u>The Committee shall take the following actions pursuant to NRS 333.335 only in an open meeting:</u>
      i. <u>Award the contract pursuant to NRS 333.335;</u>
      ii. <u>Cancel a request for proposals; or</u>
      iii. <u>Reissue a modified request for proposals</u>

Ms. Gail Burchett with State Purchasing reviewed the process for the Investment Consulting Services Request for Proposal (RFP) explaining the RFP was issued, proposals received in good order were evaluated and scored by each member of the evaluation committee on February 19, 2020. The top three scorers were invited back for finalist presentations on March 2, 2020. Scores from the final presentation were combined with original scores and based on those combined scores the highest scorer was the Hyas Group.

Vice Chair Bowman asked if the RFP was organized and conducted according to State of Nevada Revised Statute and if the process was sound.

Ms. Burchett confirmed that they followed State Purchasing guidelines and everything was in good order.

Dr. Ervin expressed his appreciation to Mr. Picarelli for all his service over the years and thanked him for his work with the Committee. He thanked the other proposers mentioning where there was a strong field and stiff price competition. They were looking forward to working with the new vendor.

Mr. Picarelli was disappointed, and it was a significant loss to their company. He believed their company was top tier and did not feel the procurement process was able to address the deficiencies within other companies.

Dr. Ervin asked what the next step in the process was.

Ms. Burchett would issue a letter of intent to the Hyas Group and pending negotiations they would go to Board of Examiners for approval. If negotiations were not successful, they would offer to the second highest scorer.

Vice Chair Bowman also thanked Mr. Picarelli and stated it was a very difficult decision.

Mr. Kruse thanked Mr. Picarelli for everything he did for the Committee and the people they serve.

Motion by Dr. Ervin to award the contract, pursuant NRS 333.335, to the highest scoring vendor. Second by Mr. Kruse, motion passed unanimously, 3-0.

The Committee thanked Ms. Burchett for leading them through the process.

Vice Chair Bowman called for a five-minute break.

8. <u>Informational Item- Receive Voya Retirement Advisors (VRA) demonstration with explanation of how the Financial Engines modeling will be utilized and how it works.</u>

Mr. Bastien commented that Mr. Boehmer and the Committee had asked for a more in-depth presentation on VRA which was a substitution for Morningstar.

Mr. Peter Winterbottom explained that VRA service came out of the relationship they had with Financial Engines where that core methodology was integrated into the participant website. Previously, in the relationship with Morningstar, it was primarily an online driven service, but they found most people wanted to talk with someone. VRA had dedicated, full time, non-commissioned investment advisor representatives to deliver investment advice and managed account services as well as education and guidance. They can give recommendations for fund specific advice without a fee. The representatives are equally incentivized for all types of funds and the local Voya representatives would also receive training for the VRA program.

Mr. Kruse asked about the methodology and how the information was processed and what the fees would be.

Mr. Winterbottom stated the same methodology drove both the free and for fee advice. The fees would be the same as the Morningstar program, 50 basis points (0.50%) in managed accounts which were reviewed on a monthly basis and changes were made proactively. The free advice would have to be implemented by the participant. They send out a personalized, printed assessment annually, and the more data provided the better the statement/assessment would be. The local Voya representatives would start training around mid-May prior to any mailings being sent out to participants. A mailing would likely go out in June with implementation on the new platform including the VRA around mid-August.

Chair Bowman called a five-minute break.

7. For Possible Action- Discuss and review the following items involving the current Self-Directed Brokerage Account (SDBA) window within the NDC Core Investment line-up:
   a. Status update on TD Ameritrade/Charles Schwab acquisition.
   b. Re-visit and discuss the possibility of increasing the SDBA deferral threshold based on the implementation of the new NDC cost structure.

Mr. Bastien stated there was a public announcement that TD Ameritrade had entered into an agreement to sell their business to Charles Schwab with the sale taking place over the course of a two-year period. Not a lot of information was available so there were outstanding questions pertaining to the current agreement with State. He would update as answers became available.

Mr. Boehmer wanted to discuss the SDBA account as due diligence. When new Committee members were appointed, they would be updated. He also wanted to revisit the possibility of increasing the SDBA threshold.

Mr. Bastien spoke with Voya internally about the SDBA threshold. Currently it was capped at 50% for NDC accounts. Based on best practices they did not recommend going over 75% but they could possibly go to 80%. The minimum balance to participate in the SDBA was $5,000 so they could transfer $2,500.

Mr. Boehmer looked at data and only one participant had less than a $10,000 balance. He also researched through NAGDCA and not many programs went higher than 50% threshold.

Mr. Bastien stated that Voya reserved the right to limit the number of participants. It would be very simple to make the switch to a higher percentage, but they would not advertise the change.

Motion by Mr. Kruse to increase the threshold to 75% in the Self-Directed Brokerage Account option. Second by Dr. Ervin, motion carried unanimously, 3-0.

Mr. Bastien noted there was a disclosure that could be signed and dated as part of the application stating that NDC was not responsible for the performance of funds. It could be implemented going forward.

Ms. Patane remarked there were 91 participants who currently used the SDBA.

4. Approval of Nevada Public Employees' Deferred Compensation Program (NDC) Committee (Committee) meeting minutes for public meeting held on November 13, 2019.

Motion by Dr. Ervin to approve the minutes from November 13, 2019, second by Mr. Kruse. Motion passed unanimously, 3-0.

5. For Possible Action- Receive, discuss, and approve Executive Officer Report of fourth quarter 2019.

Mr. Boehmer opened his quarterly report including a summary of the budget.

Dr. Ervin asked if the revenue estimates accounted for the fee change. He also questioned why the number of accounts charging a fee went up to 14,000.

Mr. Boehmer confirmed the estimates did account for the fee change and were based on how many participants paid the fee.

Ms. Patane noted there was a coding error in the Voya system so accounts were not assessed each quarter but only in January 2019. It was corrected for fourth quarter and Voya paid the difference on the two quarters that were missed earlier in the year.

Dr. Ervin asked how many accounts were below $1,000.

Based on Mr. Picarelli's report, there were 2,160 accounts below $1,000.

Dr. Ervin asked if they could look at the accounts under $1,000 and research three categories: how many were inactive versus actively contributing; how many were active employees not contributing; and how many were termed employees.

Mr. Boehmer looked at the budget spreadsheet, revenue breakout, and administrative account and reviewed annual plan data on contributions, loans, and unforeseen emergencies. He continued his report voicing that City of North Las Vegas listed an RFP for investment consultant services but may still consider joining the NDC Plan. Lincoln County was interested in joining and was provided paperwork. Mr. Boehmer would attend a future commissioner meeting to speak with them. The Financial Audit RFP was pulled since only one firm qualified but the bid was significantly higher than previous audits. A local firm was found to provide the service at about $35,000. The contract should be on the Board of Examiners meeting for April and the audit would start immediately upon approval. Casey Neillon was the firm and they felt confident they could complete and finalize the audit by June 30, 2020. The fiscal year 2020 audit would be done around October prior to the holidays.

Mr. Boehmer provided a draft communication regarding the upcoming fund change and conversion from Accumulation Unit Value (AUV) to Net Asset Value (NAV).

Dr. Erving asked if they could add an explanation that the new NAV the share prices would match the ticker symbol, which showed the value of the change.

Mr. Kruse suggested they bold the print for the 3.10% crediting rate so is stood out.

Motion by Mr. Kruse to approve the Executive Officer report. Second by Dr. Ervin, motion passed unanimously, 3-0.

9. <u>For Possible Action – Receive and approve plan activity and service report from contracted recordkeeper Voya Financial for fourth quarter ending December 31, 2019.</u>

Ms. Patane reviewed the fourth quarter 2019 report from Voya covering plan assets, quarterly and yearly activities for the representatives including group meetings, one-on-ones meetings, and enrollment. She also covered information on participation activity, rollovers in and out of the Plan, distributions, beneficiary data, and information from the targeted email campaigns that started in March 2019.

Mr. Bastien examined the participation rates for the 5-year agreement. The commitment was to increasing plan participation by 10% during the 5-year contract term. Overall, the participation rate grew from 18.16% to 28.26% which was a 10.10% increase. The representatives gave a strong push at the end of the year to get the enrollments up. Many factors influenced their effort to reach the goal and they learned a lot through the experience, finding what worked best and what needed improvement.

Mr. Boehmer commended the team effort; it was a good job all around.

Motion by Mr. Kruse to approve the Voya fourth quarter report. Second by Dr. Ervin, motion carried unanimously, 3-0.

10. Informational Item- Discuss SECURE Act parameters that will be implemented immediately as well as items that the Committee will need to agendize, discuss, and decide on whether to adopt in the NDC Plan Design.

    Mr. Boehmer addressed the SECURE Act explaining that the Committee would need to decide which provisions were applicable or should be considered for the Program. One mandatory change was the required minimum distribution rule which changed the age from 70½ to 72.

    Mr. Boehmer noted there were two provisions as options: allowing for withdrawals for birth or adoption, and modification to the age for in-service withdrawals changing from 70½ to 59½.

    Dr. Ervin remarked those two options allowed for leakage from the plan.

    Mr. Boehmer and Mr. Bastien agreed they should wait and see, get more information, and hear the opinions from the Department of Labor.

11. Informational Item- Possibly reschedule the Annual Strategic Planning meeting and schedule quarterly meetings in May/June and August/September timeframe, and/or schedule any other special meetings.

    The date for the Quarterly/Planning Meeting was set for June 17, 2020, starting at 8:00 a.m. The next Quarterly meeting would be September 15 or 16, 2020, depending on Dr. Ervin's teaching schedule.

12. Committee Members comments

    No comments.

13. Update from Investment Consultant

    No comments.

14. Update from Recordkeeper

    Mr. Bastien learned at a recent Voya meeting about a student debt solution that was coming soon. He would send out information as it became available.

15. Administrative Staff/Department of Administration Updates

    Mr. Boehmer mentioned the leadership meeting with the new Director of Department of Administration, he would be reporting directly to the deputy director. Their office was in support of auto features, but issues could arise with collective bargaining. He asked for the Committees input if he should advocate for those features. Budget building kickoff happened in late February and NDC was only allowed two Governor recommended enhancements. He would reconfigure the training category to allow more classes. The deadline for budget changes was in April.

16. Public Comment

No public comment.

17. Adjournment

The meeting was adjourned at 12:21 p.m.

Respectfully submitted,

____
Micah Salerno
NDC Administrative Assistant

Sponsor Election to Allow Coronavirus-Related Distributions and Loans Voya Financial

Dear Plan Sponsor,

On Friday, March 27, 2020, President Trump signed into law the Coronavirus Aid, Relief, and Economic Security Act, or CARES Act (the "Act"). The Act includes a number of tax provisions related to retirement plans noted in this summary.

Coronavirus Related Distribution from Certain Retirement Plans
A plan participant or IRA owner may take a coronavirus related distribution from a 401(a), 401(k), 403(b), or governmental 457(b) plan or from a traditional IRA beginning March 27, 2020 and before December 31, 2020 due to:

- that individual being diagnosed with the virus SARS-CoV-2 or with coronavirus disease 2019 (COVID-19) by a test approved by the Centers for Disease Control and Prevention;
- the individual's spouse or dependent being diagnosed with such virus or disease by such a test; or
- the individual experiencing adverse financial consequences as a result of:
  - being quarantined, furloughed or laid off or having work hours reduced due to such virus or disease;
  - being unable to work due to lack of child care due to such virus or disease, closing or reducing hours of a business owned or operated by the individual due to such virus or disease; or
  - meeting such other factors as may be issued in Treasury guidance.

A plan administrator may rely on a participant's certification that the participant satisfies the eligibility conditions for taking a coronavirus-related distribution.

Federal Income Tax Treatment of Coronavirus Related Distribution
A coronavirus related distribution is not subject to the mandatory federal 20% withholding or delivery and receipt of the Special Tax Notice. Voya will tax report the full distribution amount for tax year 2020.

Waiver of the IRS 10***% Premature Distribution Penalty Tax***
A plan participant or IRA owner who takes a coronavirus related distribution up to an aggregate amount of $100,000 is not subject to the Internal Revenue Service (IRS) 10% premature distribution penalty tax. A plan sponsor's responsibility for monitoring the $100,000 aggregate distribution amount of a participant's coronavirus related distribution is limited to only coronavirus related distributions a participant takes from all plans of that employer (and any other plans that are part of that employer's controlled group). Please note that Voya will not monitor the $100,000 aggregate distribution limit.

Repayment of Coronavirus Related Distribution
A coronavirus related distribution may be repaid in one or more contributions to a 401(a), 401(k), 403(b), or governmental 457(b) plan or to a traditional IRA over a 3-year period beginning on the date that the distribution was received if the recontribution is made to:

- a 401(a), 401(k), 403(b), governmental 457(b) plan, or traditional IRA. The coronavirus related distribution is considered to be a rollover eligible distribution for recontribution purposes.

Plan Loan Relief
A participant who satisfies the eligibility requirements for a Coronavirus Related Distribution:

- may take a loan from a 401(a), 401(k), 403(b), or governmental 457(b) plan during the 180-day period beginning on March 27, 2020 of up to the lesser of $100,000 (taking into account the outstanding balance of all other loans taken from plans of the employer) or 100% of the non-forfeitable value of the participant's account under the plan (note existing outstanding loan amounts and number of loans permitted under the plan will serve to decrease the amount available); and
- may delay repayment of a new or existing loan from a 401(a), 401(k), 403(b), or governmental 457(b) plan for a period of one year for loan repayments outstanding on March 27, 2020 through December 31, 2020. The delay of the loan repayment will not cause the loan to fail to meet the Internal Revenue Code requirements for the

maximum five-year loan term for nonresidential loans or substantially level reamortized payment schedule. Once repayments recommence, the will be adjusted to reflect the delay, including accrued interest.

Please note, your existing loan provisions still apply with respect to the number of loans available. Additionally, your plan must offer loans in order to implement this provision.

Waiver of Required Minimum Distribution (RMD) from Certain Defined Contribution Plans and traditional IRAs for 2020 Calendar Year

RMDs are waived for all participants and beneficiaries in 2020 from accounts within a defined contribution 401(a) or 401(k) plan, defined contribution 403(b) plan, or a defined contribution governmental 457(b) plan, or a traditional IRA. Voya will automatically waive Required Minimum Distributions (RMDs) for 2020 unless otherwise directed.

Plan Sponsor Authorization to Voya

By checking the box(es) below, you confirm your intent to amend your Plan based on the rule changes stated above and instruct Voya to process coronavirus-related distributions and loans.

Important Note: The Act is federal legislation and does not supersede any corresponding State legislation or State taxes applicable to retirement plans. As the Plan Sponsor you acknowledge that you are instructing Voya to process these distributions in the absence of conforming State law and State tax guidance.

Select each that apply:

☐ The ____ Plan will adopt the Act's provision to allow **coronavirus-related distributions** as outlined above and directs Voya to accept participants' self-certification of eligibility (including a telephonic affirmation on a recorded line) to receive a coronavirus-related distribution.

☐ The ____ Plan will adopt the Act's provision to allow **coronavirus-related loans** as outlined above and directs Voya to accept participants' self-certification of eligibility (including a telephonic affirmation on a recorded line) to receive a coronavirus-related loan.

☐ The ____ Plan will adopt the Act's provision to permit delayed **loan repayments** as outlined above and directs Voya to accept participants' self-certification of eligibility (including a telephonic affirmation on a recorded line) to delay loan repayments.

____ ____

Plan Name | Plan Numbers

____ ______________________

Print Authorized Plan Sponsor Representative Name | Title

____ ______________________

Authorized Plan Sponsor Representative Signature | Date https://medium.com/@ChuckGrassley/cares-act-retirement-provisions-faq-7648cd7bf943

Q: I need to withdraw money from my retirement account to cover expenses related to the health emergency. Am I eligible?

A: Generally, if the account is in an eligible retirement plan, the plan may permit you to take a coronavirus-related distribution if:

- You, your spouse, or dependent has been diagnosed with the coronavirus (i.e., SARS-CoV-2 or COVID-19),
- You have experienced adverse financial consequences because you have been quarantined, furloughed, laid off, or have had work hours reduced due to the coronavirus,
- You are unable to work because of a lack of child care due to the coronavirus,
- You own or operate a business and have had to close or reduce hours due to the coronavirus, or
- You have experienced an adverse financial consequence due to other factors as provided in guidance issued by the Internal Revenue Service.

Q: Is there a cap on how much can I withdraw?

A: Yes. During 2020, you may withdraw up to a total of $100,000 in coronavirus-related distributions from accounts in eligible retirement plans.

Q: What types of retirement accounts are covered by the special withdrawal rules?

A: The special withdrawal rules apply to eligible retirement plans, which include individual retirement accounts and annuities (IRAs), qualified pension, profit-sharing, or stock bonus plans (including 401(k) plans), qualified 403(a) annuity plans, 403(b) annuity contracts and custodial accounts, and governmental section 457 deferred compensation plans.

Q: Will I have to pay the 10-percent early withdrawal penalty if I take a coronavirus-related distribution?

A: No. The 10-percent tax penalty that generally applies to early withdrawals from a retirement account if you are younger than 59½ does not apply to coronavirus-related distributions under the CARES Act.

Q: When can I receive coronavirus-related distributions?

A: Coronavirus distributions are available throughout 2020. The CARES Act retroactively waived the 10-percent early withdrawal tax penalty for coronavirus-related distributions made on or after January 1, 2020 and before December 31, 2020.

Q: Do I have to pay tax on these distributions?

A: Yes. However, the tax associated with the distributions may be paid ratably over three years, beginning with taxable year 2020.

Q: Can I recontribute the withdrawn funds to my retirement account?

A: Generally, yes. The CARES Act allows you to recontribute the funds you withdrew to an eligible retirement plan (to which you can make a rollover contribution) in one or more payments within three years. The recontributed amounts will not count toward the maximum contribution limit in the year that the funds are recontributed to a tax-deferred retirement account.

Q: Are there any changes regarding loans from retirement plans?

A: Yes. For loans taken from an eligible retirement plan within six months of enactment of the CARES Act, limits on loans from such retirement plans are doubled, from $50,000 to $100,000, and are capped at 100 percent of the vested account balance (rather than 50 percent) in the plan. Plans are not required to increase these limits, but the CARES Act provides the flexibility for plans to do so.

In addition, for qualifying individuals (see Q&A1) who have an outstanding loan on or after March 27, 2020 (the date of enactment of the CARES Act) from an eligible retirement plan, any repayment of the loan due between March 27, 2020 and December 31, 2020 may be delayed for one year (with any subsequent repayments (and interest) adjusted to reflect such delay in repayment).

Q: Am I required to take a required minimum distribution (RMD) from my retirement account this year?

A: No. Provided that your account is an IRA, 401(k) plan, 403(b) plan or other defined contribution plan, all required minimum distributions for these plans have been waived for 2020.

Q: I turned 70½ last year and am supposed to take my first RMD on April 1, 2020. Am I still required to take this distribution?

A: No. All required minimum distributions for defined contribution plans have been waived for 2020, including your first RMD (provided that you had not already taken the distribution before January 1, 2020).

Q: Where can I get more information on the retirement-related provisions in the CARES Act?

A: The IRS is expected to provide guidance regarding the retirement-related provisions, which will be available on the IRS.gov website — see Coronavirus Tax Relief.

**The above information was prepared by Republican Finance Committee staff for informational purposes and should not be relied on for legal advice. Individuals should consult the IRS or a tax advisor to address questions related to their specific circumstances.*

Written by

Sen. Chuck Grassley

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MANAGING THE COVID-19 CRISIS:
WHAT 457 PLAN FIDUCIARIES NEED TO KNOW

CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY (CARES) ACT SIGNED INTO LAW, CONTAINS MULTIPLE RETIREMENT PLAN PROVISIONS

The CARES Act, a $2 trillion relief bill, was signed into law by the President on March 27th and includes provisions that will impact governmental retirement plans and their participants. Key retirement plan-related components of the Act are:

- Allows special COVID-19 "hardship" distributions of up to $100,000 with special tax treatment including the waiver of the 10% penalty on 401(a) and 401(k) plan assets;
- Increased plan loan limits of up to $100,000 or 100% of assets and allowance for longer loan repayment terms; and
- Waiver of RMDs (required minimum distributions) for the year 2020.

Hyas Group has prepared a CARES Act checklist, which describes each mandatory and optional CARES Act feature. You can access it here: Read Here.

QUESTIONS AND ANSWERS FOR GOVERNMENTAL RETIREMENT PLAN SPONSORS IN THE MIDST OF THE CORONA VIRUS CRISIS

The Q&A provided by the law firm Ice Miller, LLP linked below may be helpful to governmental employers in this unique and stressful environment. Topics include re-hiring retired employees with critical expertise, in-service distributions, and treatment of paid leave: COVID-19 and Governmental Retirement Plans

GUIDANCE AND PERSPECTIVE FOR RETIREMENT PLAN INVESTORS AND PLAN FIDUCIAIRES IN A UNIQUE AND STRESSFULL TIME FOR THE ECONOMY AND MARKETS

The markets and the US economy have endured sudden shocks and the recessions that followed many times before. *PLANSPONSOR* provides some industry perspective for both retirement investors and those who are responsible for retirement plan oversight may find helpful: Read Here.

SPARK PROVIDING A COVID-19 CYBER SECURITY RESOURCE LIBRARY

With so many of us working exclusively from home and conducting our business (and lives) online through home computers and laptops, cyber security risks have increased during the COVID-19 crisis. Sadly, cyber criminals are aware of this increased vulnerability and are acting accordingly. SPARK has provided this resource library to help navigate this new set of risks: Read Here.

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THE IRS RELEASES A Q&A ON ASPECTS OF THE COVID-19 INCOME TAX FILING AND PAYMENT DUE DATE EXTENSIONS FOR 2020

In Notice 2020-18 (PDF), the Treasury Department and the IRS announced special federal income tax return filing and payment relief in response to the ongoing COVID-19 emergency. Topics discussed include IRA, HSA, and Archer MSA contributions and deadlines. Read the full Q&A from the IRS here: Text of IRS Q&As on Filing and Payment Deadlines Under Notice 2020-18, Including Contributions to IRAs, Retirement Plans and HSAs

THE HYAS GROUP IS OPEN AND AVAILBLE TO ASSIST YOU IN NAVIAGATING THIS CRISIS

While we are not traveling to see our fellow plan fiduciaries in person and the office is not receiving visitors while we all work from home, we remain available to assist you with any questions and offer guidance. Please contact your Hyas Group consultant when the need arises. On March 16, we released this piece on the history of markets when epidemics and pandemics have struck in the past, and it remains relevant despite the rapidly changing situation: Read Here.

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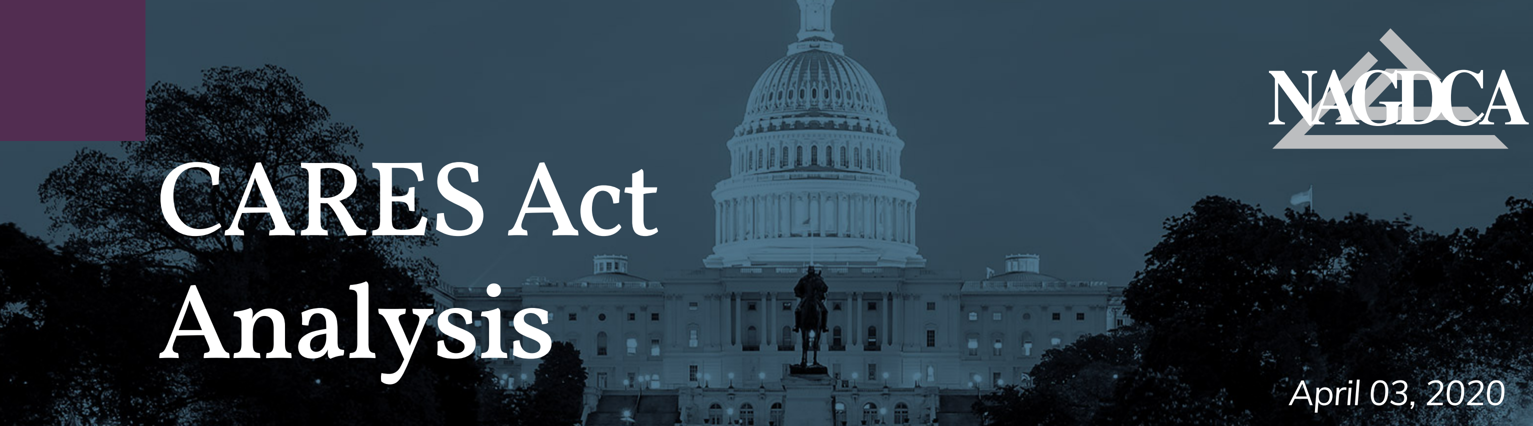


CARES Act Analysis

April 03, 2020

The President signed the **Coronavirus Aid, Relief, and Economic Security (CARES) Act** into law on March 27,2020. The CARES Act is wide-ranging legislation aimed at partially alleviating the financial crisis brought on by the novel coronavirus (SARS-CoV-2) that causes COVID-19. NAGDCA joined 24 other retirement industry groups in **a letter** to Congress to advocating for the inclusion of critical retirement provisions in the final bill. Many of these provisions were written into the final law. Below is a summary of the provisions affecting governmental defined contribution retirement plans, and their impact on public plan sponsors.

SECTION 2202 – SPECIAL RULES FOR RETIREMENT FUNDS

PROVISION: IRS Code 72(t), the 10% early withdrawal penalty, will not apply to any coronavirus-related distributions.

LIMITS: Up to $100,000 per individual applied across all plans and IRAs. Plan sponsors are obligated to enforce the limit for all plans in the same controlled group.

WHO DOES IT APPLY TO? Distributions from IRAs, 401(k), 401(a), 403(b), and 457(b) plans.

REPAYMENT: Coronavirus-related distributions can be repaid within three years of the date of distribution to any plan or IRA allowing rollover contributions; repayments are treated as rollover contributions.

HOW IS A DISTRIBUTION TAXED?

Regular income tax due on coronavirus-related distributions is spread ratably over three years unless the person elects otherwise. The 20% income tax withholding requirement does not apply, and 402(f) notice is not required.

It is expected that plans will issue a Form 1099-R for the full distribution amount as normal, and participants will need to claim the three-year ratable taxation on their personal tax returns, although more guidance is needed from the IRS on this point.[1]

More guidance is also needed in regard to how participants who make repayments are to claim a refund of previously paid taxes on the distributions subsequently repaid.[1]

WHAT IS A "CORONAVIRUS-RELATED DISTRIBUTION"?

Any distribution made on or after January 1, 2020 and before December 31, 2020 to an individual:

- who is diagnosed with the virus SARS-CoV-2 or with coronavirus disease 2019 (COVID-19) by a test approved by the Centers for Disease Control and Prevention (CDC),
- whose spouse or dependent is so diagnosed, or
- who, due to such virus or disease, experiences adverse financial consequences as a result of: (1) being quarantined, (2) being furloughed or laid off, (3) having work hours reduced, (4) being unable to work due to lack of child care, or (5) being unable to work due to the closing or reducing of the hours of a business owned or operated by the individual.

Please note that as a plan sponsor, you can rely on an employee's certification that at least one of the above conditions are satisfied. Plan sponsors may consider consulting with their recordkeepers to develop a certification as a part of their administrative process.[1]

Plan sponsors adopting this provision may set a limit lower than $100,000 if desired but must enforce the same limit for all plans in the same controlled group.

SECTION 2202 - CONT'D

PROVISION: Increased loan limit and extension of repayment period

LIMITS: The maximum loan amount is increased from $50,000 or 50% of the vested account balance to $100,000 or 100% of the vested balance.

WHO DOES IT APPLY TO? 401(k), 401(a), 403(b), and 457(b) plans.

REPAYMENT: Payments are delayed by one year for any person meeting the requirements for a coronavirus-related distribution who (1) has an outstanding loan balance on or after March 27, 2020, and (2) has loan payments due from March 27, 2020 through December 31, 2020. All subsequent payments will be adjusted to consider the delay and the interest accrued during the delay. The five-year loan limit may be disregarded for this purpose.

Plan sponsors that do not currently permit loans could consider amending their plans to allow them. Plan sponsors that already permit loans may wish to review their loan policies to determine if they can allow more flexibility.[2]

There is a lack of consensus among retirement law experts as to whether a plan sponsor may choose to extend the repayment deadline or if it is mandatory.

We will provide updates when additional guidance is issued by the IRS.

PLAN AMENDMENT INFORMATION:

Offering in-service coronavirus-related distributions or loans are optional provisions that must be adopted by the plan sponsor. If your plan would like to make such distributions and/or loans available, then the plan must be amended on or before the last day of the first plan year beginning on or after January 1, 2024 (January 1, 2022 for non-governmental plans).

The Treasury Department is given the authority to extend the amendment deadlines.

SECTION 2203 – TEMPORARY WAIVER OF RMD RULES FOR CERTAIN RETIREMENT PLANS AND ACCOUNTS

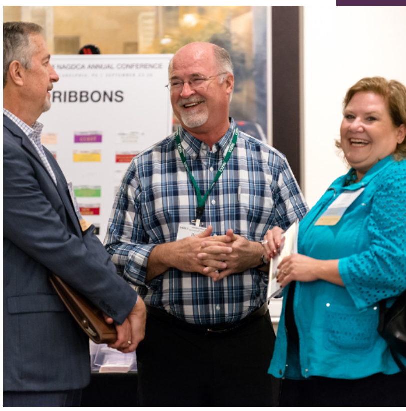
PROVISION: Required Minimum Distributions (RMDs) are temporarily waived.

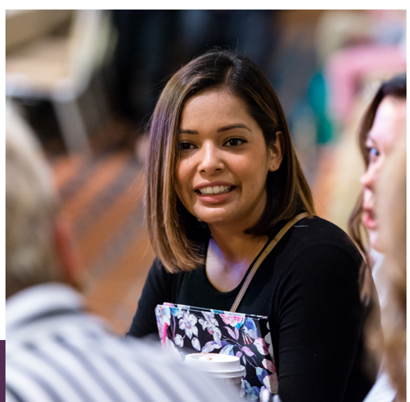
LIMITS: Any RMD required to be made in calendar year 2020 is waived, including RMDs due as a death benefit in accordance with the five-year rule and that time limit is extended by one year.

WHO DOES IT APPLY TO? 401(k), 403(b), 457(b) plans, and IRAs.

ROLLOVERS: Distributions made in 2020 that would otherwise have been RMDs can be rolled over pursuant to the 60-day rule. The rollover contribution can be made to any plan or IRA allowing rollovers. The 20% withholding and trustee to trustee transfer requirements that otherwise apply to eligible rollover distributions do not apply to these waived RMDs.

1. Ciepluch, A., Fleming, C., Riley, L., & Welle, N. (2020, March 27). Cares Act – Impact on Employee Benefit Plans. Retrieved from Foley Lardner LLP; https://www.foley.com/en/insights/publications/2020/03/cares-act-impact-on-employee-benefit-plans
2. Blachman, G., Ferguson-Allen, A., Funke, S., Gauss, R., Proffitt, M., Schaefer, S., Scheidt, K., Sciscoe, T., & Sears, C. (2020, March 27). Accessing Retirement Plan Funds Under CARES Act and Existing Law. Retrieved from IceMiller Legal Counsel; https://www.icemiller.com/ice-on-fire-insights/publications/accessing-retirement-plan-funds-under-cares-act-an/





RELIEF, NOT A NEW WAY OF DOING BUSINESS

While we at NAGDCA supported the inclusion of these provisions in the CARES Act, we want to emphasize that our support not be understood as an endorsement of a new status quo. NAGDCA has always advocated for a long-term view of retirement plans, as is reflected in our Best Practices. However, the unusual circumstances presented by the global health emergency and financial crisis demanded unusual action. At NAGDCA, we will do everything we can to connect you to the resources you need to be successful. If you need support or have questions, please see our COVID-19 resources page or contact us directly at nagdca@amrms.com.

For questions about the CARES Act, or any of NAGDCA's legislative priorities, please contact Paul Beddoe, our Legislative Affairs Director, at paul@pvbga.com.

We would also like to thank our Legislative Committee members for their support, with a special thanks to committee member Marilyn R. Collister, Senior Director of Regulatory Affairs for Government Markets at Empower Retirement, for her assistance with this analysis.

NAGDCA

Segal

Memorandum

Date: March 30, 2020

Re: CARES Act Provides Coronavirus-Related Relief for Retirement Plans

On March 27, 2020, President Trump signed into law the "Coronavirus Aid, Relief and Economic Security Act" (CARES Act or Act) to help relieve some of the hardships created by the coronavirus and its widespread repercussions on the health and livelihood of the American people. The Act, which is generally effective immediately, allows plans to give participants greater access to their retirement plan funds and provides temporary funding relief for single-employer DB plans, as described below.[1]

1. In-service distributions

For "coronavirus-related distributions" of up to $100,000 per year from qualified retirement plans, the CARES Act provides tax relief by waiving the otherwise applicable 10 percent early withdrawal penalty, allows the income tax due on such distributions to be spread over three years, and permits repayment of the distributed amount within three years as an eligible rollover distribution to an IRA or plan. The CARES Act also eliminates the restrictions on in-service distributions from 401(k), 403(b) and governmental 457(b) plans with respect to coronavirus-related distributions. While the Act does not override the in-service distribution restrictions on money purchase and defined benefit plans, the tax relief (e.g., waiver of the 10 percent penalty, payment of tax over three years, and permitted repayment over three years) applies to coronavirus distributions otherwise permissible under such plans.

Generally, a coronavirus-related distribution is one made on or after January 1, 2020, and before December 31, 2020, to a participant who has tested positive for COVID-19, or whose spouse or beneficiary has tested positive for COVID-19, or who experiences one or more of a wide range of adverse financial consequences including being quarantined, furloughed or laid-off, having work hours reduced, or being unable to work due to lack of child care as a result of the COVID-19 pandemic.

2. Plan loans

For plans that allow loans, the law generally limits the total loan amount to the lesser of $50,000 or 50% of the participant's nonforfeitable accrued benefit. Under the Act, for participants who are eligible for coronavirus-related distributions as discussed above and who take out loans within 180 days beginning March 27, 2020, the loan maximums increase to the greater of $100,000 or 100% of the nonforfeitable accrued benefit. In addition, such participants with outstanding loans on or after March 27, 2020, would not have to make loan repayments for an additional year if the repayment due date is between March 27, 2020 and December 31, 2020.

[1] In addition to retirement plan-related matters, the Act addresses many other issues including small business loans, direct payments to certain individuals, paid family leave, sick pay, and loans and loan guarantees to businesses adversely affected by the coronavirus.

3. DC plan required minimum distributions

The CARES Act eliminates required minimum distributions in 2020 for participants in all DC plans (including profit sharing, money purchase, 401(k), 403(b) and governmental 457(b) plans). It also eliminates the required minimum distribution for individuals who turned age 70½ in 2019 and who would otherwise have had to take the 2019 required beginning date distribution by April 1, 2020. This section of the CARES Act is retroactively effective as of January 1, 2020.

4. Plan amendments

Plan amendments related to the distribution and loan relief as well as the waiver of 2020 calendar year required minimum distributions are not required until the last day of the first plan year beginning on or after January 1, 2022, with governmental plans having until the 2024 plan year. In both cases, the plan must operationally comply with the terms of the amendment prior to the adoption date. There is no additional time for collectively bargained plans.

5. 2020 single-employer DB plan contributions

Sponsors of single-employer DB plans can delay payment of any required contributions, including quarterly installments that are due in the 2020 calendar year, until January 1, 2021. The amount due at that time will include interest for the deferred payment. This relief is not available to Cooperative and Small Employer Charity (CSEC) plans. While this relief extends contribution deadlines for minimum funding purposes, it does not extend the deadline for tax deduction purposes, absent further legislative or regulatory action.

6. Single-employer DB plan benefit restrictions

For benefit restrictions applicable to single-employer defined benefit plans, plan sponsors may elect to use the adjusted funding target attainment percentage (AFTAP) for the last plan year ending before January 1, 2020 as the AFTAP for plan years that include calendar year 2020.

Immediate Action Items for Plan Sponsors to Consider

- Determine whether you want your plan to offer coronavirus-related distributions. If so, address the administrative issues internally and with affected service providers (e.g., revised policies and procedures, development of participant request forms), and consider communicating the new processes to your participants. At the same time, sponsors of 401(k) plans might also wish to consider expanding the types of money available for hardship distributions (e.g., qualified nonelective contributions (QNECs), qualified matching contributions (QMACs), and earnings on QNECs, QMACs and 401(k) elective contributions) as is now permitted.
- Determine whether you want your plan to offer increased loan amounts and or delayed loan repayments. If so, address the internal and external administrative issues and communications as in the bullet above, but remember that the time period within which eligible participants can take advantage of the higher loan limits is only 180 days, beginning March 27, 2020.
- There is virtually no time in which to make any changes with respect to the required beginning date distributions scheduled to go out by April 1, 2020. However, because such distributions will no longer be "required minimum distributions" under the law, it appears that they generally will be eligible for rollover.

- For single-employer DB plans, determine how you will address the minimum contribution relief, e.g., determine whether, notwithstanding the relief, you prefer to make the 2020 minimum contributions this year.
- For single-employer DB plans, determine whether you will base benefit restrictions on the prior year calculations.

What Is Not in the CARES Act

Discussions leading to the CARES Act included additional DB plan relief. As agreed to by the House and Senate, and signed by the President, the CARE Act does **not** include

- Multiemployer funding and rehabilitation provisions (e.g., Butch-Lewis Act)
- Assistance to PBGC's multiemployer program
- Permanent funding relief for single-employer plans

There continues to be discussion about another bill to be put forward later in the year ("Stimulus 4.0"), but whether that will happen remains uncertain.

***

Please note that the observations and conclusions in this e-mail are preliminary and subject to revision upon further reflection or the issuance of guidance. Plan sponsors are encouraged to discuss the issues raised here with their legal, tax and other advisors before determining how they apply to their specific situation.