ED SLOTT'S
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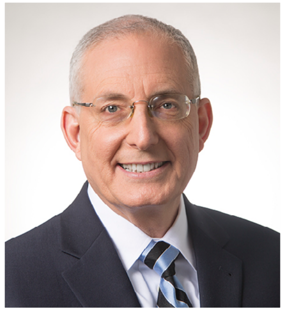
Tax & Estate Planning for Your Retirement Savings



WHAT'S INSIDE?

CARES Act Relief for Retirement Account Withdrawals and Plan Loans

The Coronavirus Aid, Relief, and Economic Security (CARES) Act, signed by President Trump on March 27, 2020, includes important retirement account withdrawal and plan loan relief. This new law allows qualified individuals to take up to $100,000 of penalty-free, coronavirus-related IRA and company plan distributions during 2020.

Further, the law allows the distributions to be repaid to IRAs or plans and permits federal income tax on those withdrawals to be spread out over three years. The CARES Act also relaxes certain plan loan rules.

Who Gets Relief?

Although the number of victims eligible for relief during the coronavirus pandemic is much greater than the number who qualified for prior IRS relief for disasters like hurricanes and wildfires, this relief is available only to qualified individuals.

The definition of "qualified individual" includes a great many people, *but not everyone*. It includes:

- Individuals diagnosed with the SARS-CoV-2 or COVID-19 virus by a test approved by the CDC;
- Individuals whose spouse or dependent is diagnosed; *and*
- Individuals who experience "adverse financial consequences" from:
  1. Being quarantined;
  2. Being furloughed or laid off or having work hours reduced;
  3. Being unable to work due to lack of child care; *or*
  4. Closing or reducing hours of a business owned or operated by the individual.

The law gives the Secretary of the Treasury the authority to expand this definition.

Example 1: José owns a five-star Spanish tapas restaurant. Due to the pandemic, he had to close his dining room and now only offers curbside pick-up. He has also been forced to reduce hours of operation. José has experienced adverse financial consequences and is a qualified individual.

Example 2: Tori, an architect, is fortunate in that neither she nor her spouse or dependents have been diagnosed with COVID-19. She has not been quarantined and has retained her job without a reduction in hours. However, Tori has experienced a sharp decline in the value of her 401(k) and IRA investments.

Under the CARES Act definition, Tori has not experienced adverse

Executive Summary

CARES Act Relief for Retirement Account Withdrawals and Plan Loans

- The Coronavirus Aid, Relief, and Economic Security (CARES) Act allows qualified individuals to take up to $100,000 of penalty-free coronavirus-related IRA and company plan distributions during 2020.
- Most plan sponsors will allow coronavirus-related distributions (CRDs) but are not required to do so.
- Victims eligible for relief during the coronavirus pandemic must be "qualified individuals."
- CRDs can be repaid within three years to a retirement account tax-free; repayment does not have to be made to the account from which the CRD originated.
- Income on a federal tax return from a CRD can be spread equally over a three-year period beginning with the year of the distribution.
- Individuals must report the withdrawal as a CRD on their tax return.
- Under the CARES Act, qualified individuals may take in-service CRDs at any age and without incurring a standard IRS hardship, as long as the plan allows them.
- The CARES Act increases the maximum loan amount for qualified individuals to the lesser of $100,000 (reduced by other outstanding loans) or 100% of the account balance.

2020 RMD Waiver FAQs

- The RMD waiver applies to traditional and inherited IRAs and workplace plans like SEP, SIMPLE, 401(k), 403(b) and 457(b) plans.
- Some RMDs already taken can be rolled back as long as the rollover rules are followed.
- Roth conversions and company plan rollovers to IRAs can be done in 2020 without first taking an RMD.

Avoiding the 10% Early Distribution Penalty

- The tax code includes several exceptions to the 10% penalty; some apply to all retirement accounts, others only to IRAs, and one subset only to qualified plans.
- The 72(t) exception is available to IRA owners and plan participants.
- Certain penalty waivers apply to IRAs only. The ones most likely to create problems are the first-time homebuyer and higher education exemptions.
- The age-55 exception applies to qualified plans but not to IRAs.
- If clients younger than age 59½ need cash, determine if non-retirement funds may be tapped.

financial consequences and is not a qualified individual that is eligible for IRA or company plan withdrawal relief.

Coronavirus-Related Distributions

Those who are qualified individuals can take up to $100,000 of coronavirus-related distributions (CRDs) from IRAs and company plans, such as 401(k)s, 403(b)s and 457(b) governmental plans, in 2020 and receive special tax relief. IRA and company plan withdrawals are aggregated for this purpose. There are no restrictions on how the distributed funds are used.

Example 3: Attorneys Amy and Bobby, both age 40, are married. Bobby was diagnosed with COVID-19 in March 2020. Later that month, Amy took a $100,000 coronavirus-related distribution from her IRA, and Bobby took a $100,000 from his 401(k) plan.

Both Amy's and Bobby's distributions will be penalty-free. All or part of each distribution can be repaid to an IRA or company plan and, as we will further illustrate, any federal income tax due on the distributions can be spread out over three years.

IRA owners and plan participants should remember that CRDs include any distribution taken after December 31, 2019 but before January 1, 2021 by qualified individuals. This means that distributions taken between January 1, 2020 and March 26, 2020 — *before the CARES Act date of enactment* — also qualify for special tax relief.

Relief from the 10% Early Distribution Penalty

Distributions taken from IRAs and company plans by individuals under age 59½ are generally subject to the 10% early distribution penalty unless an exception applies. Only Congress can write exceptions into the tax code. In the CARES Act, Congress has done exactly that — *created a temporary exception to the penalty for CRDs.*

Repayments

Individuals who take CRDs can repay the withdrawals within three years to a retirement account, tax-free. The three-year period begins on the day after the date the funds were received.

Individuals can make one or more repayments during the three years. Repayments cannot exceed the amount that was distributed. The repayments can be made to any retirement plan to which the original distribution could have been rolled over. Repayment does not have to be made to the account from which the CRD originated.

The repayments will be considered a direct rollover between a plan and an IRA and a trustee-to-trustee transfer between IRAs. As such, no taxable event is considered to have occurred when CRDs are repaid, and the once-per-year rollover rule will not apply.

If an individual has already paid income tax on his distribution and then later recontributes the funds to a retirement plan, he will be able to file an amended tax return to recover the taxes paid.

Spreading the Income Over 3 Years

For many individuals already hit hard by the devastating effects of COVID-19, taking a large taxable distribution from their retirement account could further aggravate their situation. Remember, even though a CRD avoids the early distribution penalty, income taxes will still be due on any pre-tax funds withdrawn.

To ease the pain, Congress included a provision allowing individuals to include the income on their federal tax return equally over a three-year period beginning with the year of the distribution.

Alternatively, individuals can elect to include the total amount in income for the year of the distribution.

Remember, even though a CRD avoids the early distribution penalty, income taxes will still be due on any pre-tax funds withdrawn.

While those over age 59½ will not benefit from the 10% penalty relief, the ability to spread income from CRDs over three years and repay those distributions may prove helpful.

Example 4: Due to the coronavirus pandemic, makeup artist Julia, age 62, is out of work indefinitely. Therefore, she decides to take a CRD of $60,000 from her IRA on May 15, 2020. Julia has until May 16, 2023 to recontribute the balance of this distribution.

Julia's distribution was already penalty-free, but she can benefit from the option of including the income from the distribution ratably over a three-year period ($20,000 in income for 2020, $20,000 in income for 2021, and $20,000 in income for 2022).

Ultimately, she decides to repay the $60,000 balance to an IRA in July 2022. Julia can then file amended tax returns for 2020 and 2021 to recover the taxes she already paid on her withdrawal.

Withdrawals for Qualified Individuals: IRAs vs. Company Plans

When disaster strikes, clients want their money, and they want it fast. For individuals with both IRA and plan funds, their IRA will usually be the better choice for CRDs.

IRA distributions can be made easily and quickly by a phone call to the custodian or through the custodian's website.

The IRA custodian will not identify a CRD with a special code on Form 1099-R. Instead, IRA owners must report the withdrawal as a CRD on their tax return. It is incumbent upon the account owner to "self-certify."

When similar relief was granted in the past to victims of other disasters, IRS Form 8915, "Qualified Disaster Retirement Plan Distributions and Repayments," was used to handle the reporting. Further IRS guidance is needed to determine whether a similar form will be used for CRDs.

Normally, under IRS rules, in-service company plan withdrawals are available only to participants over age 59½ or those who incur a hardship expense. Under the CARES Act, employees who are qualified individuals may take in-service CRDs at any age and without incurring a standard IRS hardship — *as long as the plan allows them.*

However, clients wishing to take CRDs from company savings plans will find the process takes longer versus IRA withdrawals. For one thing, clients will be required to deal with the plan administrator or company HR department. During these times, those staffers may be difficult to reach. In addition, the CARES Act requires the employee to certify to the plan administrator that he is a qualified individual.

Finally, companies are not required to allow CRDs from their plan, although we expect most will. Companies that allow CRDs must amend their plan document but can permit CRDs retroactively before the amendment is adopted. The amendment deadline is the last day of the plan year beginning in 2022, which is normally December 31, 2022.

Governmental plans have an additional two years to adopt amendments.

Even if a plan doesn't offer CRDs, a qualified individual who receives a distribution already available under the plan (e.g., a hardship withdrawal) will still qualify for the special tax relief. In other words, the CARES Act tax benefits are not limited just to participants in plans that permit CRDs as a new distribution option.

Of course, taking early withdrawals from an IRA or company plan is never ideal. During a crisis, if there is another available source of funds, advisors should recommend that those dollars be tapped first.

Even if a plan doesn't offer CRDs, a qualified individual who receives a distribution already available under the plan (e.g., a hardship withdrawal) will still qualify for the special tax relief.

Withdrawals for Non-Qualified Individuals: IRAs vs. Company Plans

Those fortunate enough to fall outside the definition of a qualified individual may still need to tap into their retirement savings to meet expenses during this unprecedented coronavirus pandemic. As with qualified individuals, non-qualified individuals are better off tapping into their IRAs before their company plan accounts. IRA funds for non-qualified individuals are available for any reason and are easily accessible.

On the other hand, company plan withdrawals for non-qualified individuals are not required, although most plans allow them in limited situations.

Again, taking a distribution from a retirement account should be a last resort. For non-qualified individuals, these distributions will be immediately taxable and, if under age 59½, normally subject to the early distribution penalty.

Plan Loans

Many company retirement plans offer plan loans, but they are not required to do so. For those plans that do offer loans, the CARES Act increases the maximum loan amount for qualified individuals to the lesser of $100,000 (reduced by other outstanding loans) or 100% of the account balance.

This rule applies to loans taken by September 23, 2020. Companies are not required to apply this new maximum, and those that do so must amend their plan document subject to the same deadline that applies to CRDs.

Any plan loan repayments for qualified individuals normally due between March 27, 2020 and December 31, 2020 can be suspended for one year. Subsequent repayments after the suspension will be adjusted to reflect the one-year delay and interest accruing during the delay. Although the law is unclear, it appears that the IRS will treat the suspension provision as optional.

Loans are not available from IRAs.

Example 5: Emma, age 28, is a qualified individual and has an existing loan from her 401(k) plan at a consulting firm.

If Emma's employer allows it, she can have repayments originally scheduled between March 27, 2020 and December 31, 2020 suspended for one year. If Emma's first repayment during that window was originally due April 1, 2020, it can be suspended until April 1, 2021. If her second repayment during that window was originally due April 15, 2020, it can be suspended until April 15, 2021, and so forth.

Advisor Takeaway

The CARES Act does not change the fact that IRA or company plan distributions are usually taxable. For this reason, clients should only tap into their IRA or plan accounts as a last resort.

Advisors must remember that the ability to receive up to $100,000 of IRA or plan distributions in 2020 and receive the special tax relief (no 10% early distribution penalty and the ability to spread taxes over three years and pay back the monies) is only available for those clients who meet the definition of a qualified individual. The relief is not automatically available to everyone.

For clients who are qualified individuals and who must reach their retirement accounts, advisors should recommend they take CRDs from their IRA before assessing their company plan account. IRA distributions are always available and are faster and easier. For this reason, clients looking to tap into company plan savings who are also eligible to roll over those savings into IRAs should be encouraged to do so as soon as possible.

For non-qualified individuals who need to access retirement savings during the pandemic, an IRA withdrawal still makes more sense than a company plan withdrawal. Company plan withdrawals for non-qualified individuals, if available at all, are more limited and may take longer to process.

Many clients who incur a standard IRS hardship expense that is also coronavirus-related would meet the definition of a qualified individual. Those clients should be advised to take a CRD in order to expedite the request and reap the tax benefits. ■

2020 Required Minimum Distribution Waiver FAQs

The Coronavirus Aid, Relief, and Economic Security (CARES) Act was signed into law on March 27, 2020. The Act includes a waiver of required minimum distributions (RMDs) for 2020 from company savings plans and IRAs. We have received numerous questions about the waiver and how it applies to certain situations. Here are the most popular inquiries:

What type of accounts are impacted by the RMD waiver?

The waiver applies to traditional IRAs and workplace plans like SEP, SIMPLE, 401(k), 403(b) and 457(b) plans. Defined benefit plans are not part of the waiver.

If wanted, can a client still take a 2020 RMD?

Yes. Any withdrawal taken in 2020 will be a voluntary distribution. Be aware that taxes will still apply.

My client turned 70½ last year and his first RMD was for 2019, but his required beginning date (RBD) was April 1, 2020. He elected to delay taking this first RMD until 2020. Is that RMD waived under the CARES Act?

Yes. The CARES Act also impacts 2019 RMDs for those who reached age 70½ in 2019 and have an RBD of April 1, 2020. Any 2019 RMD amount remaining and not already withdrawn by January 1, 2020 is waived

We have many clients who receive RMDs automatically on a monthly schedule. Even though they already took a portion of their 2020 RMD, can they elect to stop the remaining payments?

Yes.

Earlier this year, my client took an RMD for 2020 from a traditional IRA. Then the CARES Act came along. Now, she would like to have this RMD payment go into her Roth IRA instead, leaving the taxes paid exactly as is. Can this be done? It is beyond 60 days.

RMDs usually cannot be rolled over or converted to a Roth IRA. However, the CARES Act waived 2020 RMDs. So, any RMD already taken in 2020 is not considered an RMD. This means your RMD can be rolled over (i.e., converted) to a Roth IRA – *as long as it meets the usual rollover rules.*

One of those rules requires that a rollover be done within 60 days of receipt of the distribution. But the IRS recently said that if you received a distribution between February 1, 2020 and May 15, 2020, you have extra time – *until July 15, 2020* – to roll it over.

If a client already received all or a portion of her 2020 RMD, can she put it back?

Some or all of the money may be able to be returned to the account. While the CARES Act does not grant a free rollover to everyone for every RMD dollar, subsequent IRS guidance in Notice 2020-23 further relaxed rollover restrictions. As of this writing, anyone who takes an RMD between February 1 and May 15, 2020 has until July 15, 2020 to roll over the RMD payment. Future guidance could further expand rollover relief. For all RMDs received in January 2020 and after May 15, the 60-day deadline still applies.

The once-per-year rollover rule also still applies. If another IRA-to-IRA 60-day rollover was done within the previous 365 days, then the RMD cannot be put back. This means that if a person received monthly RMD payments in 2020, only one can be rolled over. *(Note: Rollovers from employer plans to IRAs and vice versa do not count toward the once-per-year rule.)*

Example: Glenda withdrew half of her 2020 RMD from her IRA in March and the other half in April. The CARES Act waives 2020 RMDs, so Glenda would like to roll the two payments back to her IRA. The once-per-year rule only allows Glenda to roll over one of these payments. However, if Glenda participates in a 401(k) that allows rollovers, she could roll the second RMD payment to the plan, because IRA-to-plan rollovers do not count toward the once-per-year rule.

Non-spouse inherited IRA RMDs cannot be rolled over. This rule is unaffected by the rollover relief in Notice 2020-23. While the CARES Act waived 2020 RMDs from both inherited traditional IRAs and inherited Roth IRAs, payments already received cannot be returned. No type of withdrawal from a non-spouse inherited IRA can ever be rolled over.

My client passed away in January without taking his 2020 RMD. Now, I am working with his children to establish inherited IRAs. Do they need to take his year-of-death RMD?

No. Since the decedent passed away in 2020 when RMDs were waived, there is no year-of death RMD to take. Beneficiary stretch rules under the SECURE Act will apply. Eligible designated beneficiaries looking to stretch payments are unaffected by the CARES Act and will have their first RMD due in 2021.

Non-eligible designated beneficiaries unable to stretch inherited payments under the SECURE Act are still bound by the standard 10-year payout rule. The 10-year rule does not become an 11-year rule.

Can I still do qualified charitable distributions (QCDs) for my clients even though their RMDs are waived?

Yes. QCDs can still be made even in years when no RMD is required. As long as clients are otherwise eligible (i.e., over age 70½), then QCDs from IRAs are still available in 2020 as a planning tool.

Are 72(t) withdrawal requirements waived for 2020?

No. This law does not apply to anyone taking early distributions under the 72(t) exception to the 10% early withdrawal penalty. 72(t) payments are not RMDs, even if they are being calculated using the RMD method. These schedules must continue as-is for 2020. Any modification or failure to take the required payment could result in retroactive penalties.

Can I do a Roth conversion for my client without taking the RMD first? Can I roll 401(k) dollars into an IRA without taking the RMD?

Yes. You can go ahead with the conversion and/or rollover without concern about taking the 2020 RMD prior to the transaction. In a normal year, the "first-dollars-out" rule dictates that the first money withdrawn from an IRA or a workplace plan is the RMD. These "first dollars out" are ineligible for a rollover. However, since RMDs are waived, the first-dollars-out rule does not apply for 2020.

Will the government waive the 60-day rollover requirement and/or the once-per-year rollover rule?

Only time will tell. In 2009, the last time RMDs were waived, the IRS did eventually also waive the 60-day rollover requirement, but that guidance did not arrive until late in the year. The IRS did not waive the once-per-year rule or allow non-spouse beneficiaries to roll over funds.

Do inherited IRAs fall under the waiver?

Yes. 2020 RMDs are waived for both inherited Roth and inherited traditional IRAs. For those IRAs inherited by non-designated beneficiaries (i.e., a charity, estate or non-qualifying trust) that are subject to the 5-year payout rule, 2020 can be disregarded.

Does my client need to be negatively affected by the coronavirus for the RMD waiver to apply to him?

No. There are no prerequisites for the RMD waiver. It automatically applies to everyone who has an RMD from an impacted account. Do not confuse rules in the CARES Act for "coronavirus-related distributions" with the RMD waiver. These are separate and distinct guidelines. ■

Avoiding the 10% Early Distribution Penalty

Guest Expert

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Retirement accounts are intended to be distributed at later ages — *but things don't always go according to plan.* When a client needs cash, sometimes the most practical solution is to access those retirement funds early, which triggers an income tax payment to Uncle Sam. If such a withdrawal occurs before age 59½, an additional 10% penalty may make the transaction much more costly.

Fortunately, the tax code includes several exceptions to this 10% penalty. Some apply to all retirement funds, others only to IRAs and one subset only to qualified plans. Advisors who know the rules can help keep clients out of the penalty box.

Exceptions for Everyone

As might be expected, the 10% early withdrawal penalty is waived upon death of the IRA owner or plan participant. Moreover, the tax code makes other accommodations during life such as one for steep unreimbursed medical expenses and, under the new SECURE Act, another for up to $5,000 after birth of a child or adoption.

More recently, under the new CARES Act, the 10% penalty is waived in 2020 for virus-affected individuals who take up to $100,000 of early retirement plan and IRA withdrawals.

Coronavirus-related distributions (CRDs) can be taken penalty-free (regardless of age) by people who have suffered health or financial setbacks from the pandemic. Income taxes could be avoided if the CRDs are returned within three years.

Alternatively, if the CRDs are not put back into the retirement plan or account, the tax would still be due but could be spread out evenly over a three-year period. Since the purpose of these accounts is to fund one's retirement, CRDs should be viewed as a last resort.

The 72(t) exception is also available to IRA owners and plan participants. Under Section 72(t) of the tax code, early distributions won't be taxed if the withdrawals are in the form of a series of substantially equal periodic payments (SOSEPP).

There are several ways to calculate a SOSEPP, so taxpayers have a great deal of flexibility in determining how much to take from their IRA or company plan via 72(t). Many 72(t) calculators can be found online. Three different methods can be compared so that the desired SOSEPP (often, the highest permitted amount) can be used.

Regardless of the method chosen, once a SOSEPP has begun, it must be maintained for at least five years or until age 59½, whichever comes later. Any withdrawal differing from the specified amount will trigger the 10% penalty on all withdrawals before age 59½.

Example 1: Harry, age 50, learns through his advisor that an approved 72(t) method permits him to withdraw $20,500 a year, penalty-free, from his $500,000 IRA. Harry must take this amount ($20,500) from his IRA every year until he reaches 59½. If Harry takes more or less from his IRA in any of those years, the 10% penalty will be imposed on all of his pre-59½ withdrawals, plus interest.

Example 2: Kate begins a SOSEPP at age 57. She must continue withdrawing the specified amount for five years, until age 62, even after she passes the age 59½ threshold. Again, a failure to fully comply will result in a penalty on all of Kate's pre-59½ distributions, plus interest.

IRAs Only

In addition to the exceptions that apply to all retirement accounts, certain penalty waivers apply to IRAs only. Among those, the ones most likely to create problems are the first-time homebuyer and higher education exemptions.

A recent Tax Court case, Lily Hilda Soltani-Amadi v. Commissioner; No. 2090-18S; T.C. Summ. Op. 2019-19; August 8, 2019, illustrates one possible pitfall. Here, the taxpayer was told by a representative of her 401(k) plan that she could take out money for a down payment on a home without being penalized.

The IRS said otherwise, and the Tax Court agreed: this exception is specifically for "individual retirement accounts," not for company plans such as a 401(k).

Indeed, in order to earn this first-time homebuyer exception, the IRA withdrawal must pass all of these tests:

1. The money generally must be used within 120 days of the distribution;
2. Only qualified costs are eligible, including buying, building, or reconstructing a home;
3. The home must be a principal residence;
4. The home must be owned by the IRA owner or certain specified relatives;
5. No more than $10,000 of withdrawals can be exempt, over the IRA owner's lifetime; *and*
6. Only "first-time" home buyers can qualify.

A first-time homebuyer is defined as someone who has not owned all or part of a principal residence for two years before a contract was signed for the use of qualified costs. The IRA owner's spouse also must meet this test.

The exception for higher education is less restrictive, as there is no upper limit on the amount of penalty-free distributions. Eligible expenses for classes beyond high school include books, tuition, housing, fees, computer equipment and related outlays. The individual receiving the education can be the IRA owner, the owner's spouse, or descendants.

The only issue that might cause confusion is the timing — *expenses must be paid in the same year as the distribution to qualify for the exception to the 10% penalty.*

> The only issue that might cause confusion is the timing — *expenses must be paid in the same year as the distribution to qualify for the exception to the 10% penalty.*

Nevertheless, some taxpayers still erroneously claim this higher education exception for distributions from qualified plans. A number of Tax Court cases have ruled against people who took college money from their 401(k).

There has also been a case, Christine L. Gibbons v. Commissioner; T.C. Summ. Pp. 2006-106; No. 5464-05S; July 13, 2006, in which a schoolteacher took money for higher education from her 403(b), only to be denied the IRA-only exemption.

Employer Plans Only

One key exception applies to qualified plans but not to IRAs. If a plan participant separates from service during or after the year of reaching age 55, distributions made after his or her departure won't be penalized.

Employees who leave the firm prior to the year of their 55th birthday will not qualify for this exception, even if they wait until age 55 to take a distribution. This point was made by Gail Marie Watson V. Commissioner, T.C. Summary Opinion 2011-113, September 28, 2011, in which the taxpayer left her company when she was 53 but took a distribution after reaching age 55. The Tax Court said that the date of separation from service is the determining factor, not the distribution date.

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The courts have upheld the provision that distributions must be taken from an employer's retirement plan to merit this exception. In *Young Kim v. Commissioner; U.S. Court of Appeals, 7th Circuit, No. 11-3390; May 9, 2012*, the taxpayer left his company at age 56 and rolled the money in his plan to an IRA. After withdrawing about $240,000 from his IRA, he spent around $36,000 on higher education but claimed the entire $240,000 qualified for the penalty exception.

Kim's argument was that it made no sense that he could have left the money in his company plan and avoided the entire penalty, as he separated from service after age 55, only to lose most of the exception merely because of the IRA rollover.

The Court's response was that the tax code's "lines are arbitrary," but they do matter, and Kim had crossed the line for taking the full age 55 exception, for money taken from his IRA after the rollover. However, the $36,000 spent on higher education did escape the penalty, because that exception applies to IRAs.

As Ed Slott likes to say, *"If an advisor is not investing in his or her education, clients should not be investing with that advisor!"*

This article on just some of the exceptions to the 10% penalty is by no means exhaustive. In fact, we have just scratched the surface even with a review of key court decisions. This underscores the value-add that an educated advisor can provide to help clients avoid the 10% early withdrawal penalty while staying strictly within the letter of the law.

Advisor Action Plan

- If clients younger than age 59½ need money, determine if non-retirement funds may be tapped.
- Lacking other options, explain that retirement plan withdrawals may be taxed and a 10% penalty for early distributions may be added but some exceptions apply.
- Assuming that retirement assets will be the source of cash, investigate which 10% penalty exception might be useful.
- If no specific exemptions apply, use an online calculator to see if a 72(t) withdrawal schedule will satisfy the client's cash need.
- When 72(t) withdrawals won't be the answer, determine whether it's better to roll money into an IRA, to use an IRA exception, or to keep the funds in a company plan in order to leverage the age 55 exception.
- If the age 55 exception seems like the best choice, make sure the client remains with the company at least until the year of his or her 55th birthday. ■

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10% Early Distribution Penalty Exceptions

Type of Exception	Exception Applies to:	
	IRAs (Incl. SEP & SIMPLE IRAs)	Plans
Active Reservists	X	X
Age 50 (for Public Safety Employees)		X
Age 55		X
Annuitizing / 72(t) - Substantially Equal Periodic Payments	X	X
Birth or Adoption	X	X
*Coronavirus-Related Distributions for Qualified Individuals	X	X
Death	X	X
Disability	X	X
Divorce (Qualified Domestic Relations Order)		X
First Time Home Buyer	X	
Health Insurance (for Unemployed)	X	
Higher Education Expenses	X	
IRS Levy	X	X
Medical Expenses	X	X
Phased Retirement Distributions from Federal Plans		X
Section 457(b) Governmental Plans		X

**The Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 waives the 10% early distribution penalty on up to $100,000 of 2020 distributions from IRAs and plans for "qualified individuals." The tax would be due but could be spread evenly over 3 years, and the funds could be repaid during those 3 years.*