



MEMORANDUM

TO: Treasurer Folwell, SRP Board of Trustees

FROM: Tom Causey, Executive Director NC RSD; Mary Buonfiglio, Director SRP; Reid Chisholm, Assistant General Counsel, SRP

DATE: April 20, 2020

SUBJECT: Staff Recommendation for Implementation of CARES Act provisions for the Supplemental Retirement Plans

CARES Act: Three provisions to assist North Carolina Supplemental Retirement Plan Participants

- a. Modified Distribution Provisions
- b. Modified Loan Provisions
- c. Waived RMD

a. Coronavirus-related Distribution (CRD)

Features Requiring Board Action - Staff recommends the Board adopt

- Permit a participant to take coronavirus-related distributions (CRD) up to \$50,000 (not the maximum of \$100,000 permitted) through December 31, 2020.
- Permit a participant to self-certify that the participant qualifies for a CRD.
- Permit a participant to repay a distribution within three years of taking the distribution.
- Permit repayment regardless of whether the participant took the CRD from the North Carolina Supplemental Retirement Plan or another (non-NCSRP) plan.

Automatic Provisions – Does not require adoption by Board

- Distribution not subject to the 10% tax penalty on an early withdrawal from a 401(k) / 403(b) plan.
- Distribution can be recognized over three years for income tax purposes.
- Distribution not subject to the 20% income tax withholding.



b. Loans

Features Requiring Board Action - Staff recommends the Board adopt

- Amend the loan policy to incorporate the Act's requirement that repayments be deferred, and the loan term extended, for CRD-eligible participants with payments due between March 27, 2020 and December 31, 2020. After the one-year deferral period, the loan will be re-amortized with the accrued interest from the deferral period.
- Permit a participant to self-certify that the participant qualifies for a CRD.

c. Waiver of Required Minimum Distribution (RMD)

Automatic Provision – Does not require adoption by Board

- Permit a participant to waive the RMD for 2020.
- Permit a participant to make a direct (trustee-to-trustee) rollover in or out of a Supplemental Retirement Plan of an amount that includes a waived RMD.



Addendum to the Memorandum: Background on the CARES Act

The CARES Act, enacted on March 27, 2020, includes four provisions that can be incorporated into the Supplemental Retirement Plans, and they require approval by the Board of Trustees. The provisions may be implemented immediately, but the deadline for plan document amendments is not until December 31, 2024 for governmental plans.

Two of the provisions increase participant's access to their assets in the Supplemental Retirement Plans. Attachment 1 summarizes the current opportunities for participants to access assets in the NC 401(k) and NC 457 Plans.

Regulations are unlikely in the short-term, but staff will work with Prudential to implement the provisions as approved by the Board.

1. Coronavirus-related Distribution (CRD)

CARES Act Provisions

- Permit a participant to take coronavirus-related distributions (CRD) up to \$100,000 through December 31, 2020. Staff recommends a maximum of \$50,000.
- Permit a participant to self-certify that the participant qualifies for a CRD.

Comments

- The definition of a "coronavirus-related distribution" is in Attachment 2.
- The CRD maximum (\$50,000) is aggregated across all of the Supplemental Retirement Plans.
- A CRD is not subject to the 10% tax penalty on an early withdrawal from a 401(k) or 403(b) plan, and the amount of the CRD can be ratably spread over three tax years.
- A CRD is not subject to the 20% income tax withholding nor is it eligible for a rollover.

2. Repayment of CRD

CARES Act Provisions

- Permit a participant to repay a CRD within three years of taking the distribution.
- Permit repayment regardless of whether the participant took the CRD from a Supplemental Retirement Plan or another (non-SRP) plan.



3. Loan Repayment Deferral

CARES Act Provisions

- The Act permits loan payments be deferred, and the loan term extended for CRD-eligible participants for payments due between March 27, 2020 and
- December 31, 2020. After the one-year deferral period, the loan will be re-amortized with the accrued interest from the deferral period.

4. Increased Loan Maximum

CARES Act Provisions

- For 180 days beginning on March 27, 2020, raise the maximum loan amount for CRD-eligible participants to the lesser of \$100,000 or 100% of the participant's account balance. Currently, the maximum amount of a loan (regardless of CRD eligibility) is:
 - Account balance greater than \$20,000: Lesser of \$50,000 or 50% of account balance; and
 - Account balance up to \$20,000: Lesser of \$10,000 or 100% of account balance
- Staff does not support implementing this provision of the CARES Act.

5. Waiver of Required Minimum Distribution (RMD)

CARES ACT Provision – Automatic, does not require adoption by Board

- A participant is permitted to waive the RMD for 2020.
- A participant is permitted to make a direct (trustee-to-trustee) rollover in or out of a Supplemental Retirement Plan of an amount that includes a waived RMD.



Attachment 1 – Current Opportunities to Access Funds in the NC 401(k) and NC 457 Plans

1. Following retirement or termination from employment

- 10% tax penalty in the NC 401(k) Plan for a distribution (including a hardship distribution) prior to age 59½

2. During employment (in-service) distributions

- For a participant of a certain age
 - NC 401(k) Plan: Age 59½ or older
 - NC 457 Plan: Age 70½ or older
- Hardship (NC 401(k) Plan)/Unforeseeable emergency (NC 457 Plan)
 - NC 401(k) Plan: Regulatory safe harbor reasons
 - Medical care
 - Prevention of eviction from or foreclosure on principal residence
 - Funeral or burial expenses
 - Repair of damages to principal residence
 - Purchase of a principal residence
 - Post-secondary educational expenses
 - NC 457 Plan: Regulatory safe harbor reasons
 - Medical care
 - Prevention of eviction from or foreclosure on principal residence
 - Funeral or burial expenses
 - Repair of damages to principal residence
 - Requires documentation of hardship/unforeseeable emergency

3. Loan

- A participant borrows from his/her account and repays the principal and interest to his/her account. No money is borrowed from Prudential, a bank, or any third party, and no lien is placed on the participant's account. Available to current employees only.
- Maximum amount:
 - Account balance greater than \$20,000: Lesser of \$50,000 or 50% of account balance



North Carolina
Total Retirement Plans



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- Account balance up to \$20,000: Lesser of \$10,000 or 100% of account balance
- Maximum term: Five years, except 15 years for purchase of a principal residence
- Repayment through payroll (while the participant is a current employee)
- If a participant defaults on a loan, the outstanding loan principal becomes a distribution and is taxed as a distribution.
- \$60 loan initiation fee



Attachment 2 – Definition of Coronavirus-related Distribution

A “coronavirus-related distribution” is a distribution between January 1, 2020 and December 31, 2020 to a plan participant who meets one of the following tests:

1. The **participant is diagnosed** with the virus SARS-CoV-2 or with coronavirus disease 2019 (COVID-19) (together, the “Disease”) by a test approved by the Centers for Disease Control and Prevention (an “Approved Test”);
2. The **participant’s spouse or dependent** (as defined in section 152 of the Internal Revenue Code of 1986) is diagnosed with the Disease by an Approved Test, or
3. The participant experiences **adverse financial consequences** as a result of one of the following, to the extent that the result is due to the Disease:
 - a. Being quarantined;
 - b. Being furloughed or laid off;
 - c. Having work hours reduced;
 - d. Being unable to work due to lack of childcare;
 - e. The closing or reduced hours of a business owned or operated by the participant; or
 - f. As otherwise determined by the Secretary of the Treasury.