

IRS UPDATES SAFE HARBOR ELIGIBLE ROLLOVER DISTRIBUTION NOTICE

Hodgson Russ Employee Benefits Newsletter
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Section 402(f) of the Internal Revenue Code (“Code”) requires plan administrators to provide a written explanation to any recipient of an eligible rollover distribution that describes their rollover rights. The Internal Revenue Service (“IRS”) has historically made available safe harbor notices that may, but are not required to be used, by plan administrators for this purpose. The most recent safe harbor notice was made available by the IRS in 2018.

Certain changes made by the Setting Every Community Up for Retirement Enhancement Act of 2019 (“SECURE Act”) were not reflected in the IRS’s 2018 safe harbor notice. In particular, the 2018 safe harbor notice did not reflect the changes made to the required minimum distribution rules or that any “qualified birth or adoption distribution” would not be subject to the 10% additional tax on early distributions under Code Section 72(t).

The IRS recently published updated safe harbor notices that take in account changes made by the SECURE Act. In response, plan administrators using the IRS’s safe harbor notice should confirm that the updated safe harbor notice is being used. Similarly, plan administrators that use a customized notice should confirm that their customized notice takes into account the changes made by the SECURE Act.

The updated safe harbor notices are available here: <https://www.irs.gov/pub/irs-drop/n-20-62.pdf>.

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