

March 16, 2020

Ms. Carol Weiser  
Benefits Tax Counsel  
U.S. Department of the Treasury  
1500 Pennsylvania Avenue, N.W.  
Washington, DC 20220  
Submitted via email

The Honorable Preston Rutledge  
Assistant Secretary of Labor  
Employee Benefits Security Administration  
U. S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

## **Re: Tax Filing and other Relief Requested due to Coronavirus Impact**

Dear Ms. Weiser and Mr. Rutledge,

The American Retirement Association ("ARA") is writing to request relief from certain provisions under the Internal Revenue Code and ERISA due to ongoing and future business impacts of the current COVID-19 ("Coronavirus") pandemic. The Department of the Treasury ("Treasury Department"), Internal Revenue Service ("IRS"), and the Department of Labor ("DOL") have broad authority over retirement plan administration, and collectively your agencies have been very responsive in times of national emergencies. We believe the issues listed below are within the scope of the agencies' regulatory authority.

The ARA is the coordinating entity for its five underlying affiliate organizations representing the full spectrum of America's private retirement system, the American Society of Pension Professionals and Actuaries ("ASPPA"), the National Association of Plan Advisors ("NAPA"), the National Tax-Deferred Savings Association ("NTSA"), the American Society of Enrolled Actuaries ("ASEA"), and the Plan Sponsor Council of America ("PSCA"). ARA's members include organizations of all sizes and industries across the nation which sponsor and/or support retirement saving plans and are dedicated to expanding on the success of employer-sponsored plans. In addition, ARA has nearly 28,000 individual members who provide consulting and administrative services to sponsors of retirement plans. ARA's members are diverse but united in their common dedication to the success of America's private retirement system.

ARA appreciates your consideration of issues related to retirement plan administration as plan sponsors, third party administrators, and other organizations struggle with the national impact of Coronavirus. First, we note that IRS has broad regulatory authority under IRC section 7508A and robust disaster relief provisions in Rev. Proc. 2018-58. We believe this authority has been triggered by the Presidential declaration of a national emergency on March 13, 2020. It would be helpful for IRS and the Treasury Department to confirm this in published guidance. We also note that section 205 of Division Q of the Further Consolidated Appropriations Act, 2020 (Public Law No. 116-94) provides additional requirements under new IRC section 7508A(d). This appears to provide a mandatory 60-day extension to relief already existing under IRC 7508A, but it would be helpful to clarify how the 60-day extension under IRC section 7508A(d) applies to the rules regarding pensions under IRC section 7508A(b).

Notwithstanding the authority that the IRS, the Treasury Department, and the DOL have with respect to disaster relief, ARA is particularly interested in the following relief:

- An automatic extension to October 15 for filing of the Form 5500 series for retirement plans with calendar year plan years (with corresponding extensions for non-calendar year plan years).
- A 90-day extension to the deadline for correcting a failed ADP or ACP test and a 90-day extension of the period for distributing excess contributions and excess aggregate contributions under a plan

(March 15 for a calendar year plan year) without incurring a 10 percent tax under IRC section 4979 for distributions after the statutory deadline.

- A 120-day extension of the defined benefit plan restatement deadline (currently April 30, 2020).
- A 90-day extension of the 1099-R e-filing deadline for employers (normally March 31, 2020).
- Reasonable relief from notices required to be provided to plan participants under Title I of ERISA.

ARA looks forward to working with the agencies as necessary to provide relief to plan sponsors and third-party administrators as well as plan participants. Thank you for your consideration of these comments. Please contact Martin L. Pippins, MSEA, Executive Director of ASEA and Director of Regulatory Policy (mpippins@usaretirement.org; 703.516.9300, ext. 146), if you have any comments or questions regarding the matters discussed above.

Sincerely,

/s/

Brian H. Graff, Esq., APM  
Executive Director/CEO  
American Retirement Association

/s/

Martin L. Pippins, MSPA, EA  
Executive Director  
American Society of Enrolled Actuaries

Cc: Jeanne Klinefelter Wilson, Deputy Assistant Secretary, EBSA, Department of Labor  
Joe Canary, Director, ORI, EBSA, Department of Labor  
Cathy Jones, Director, Employee Plans, Internal Revenue Service SE:TE/GE: EP  
Victoria Judson, Associate Chief Counsel, Internal Revenue Service CC:EEE  
Stephen Tackney, Deputy Associate Chief Counsel, Internal Revenue Service CC:EEE