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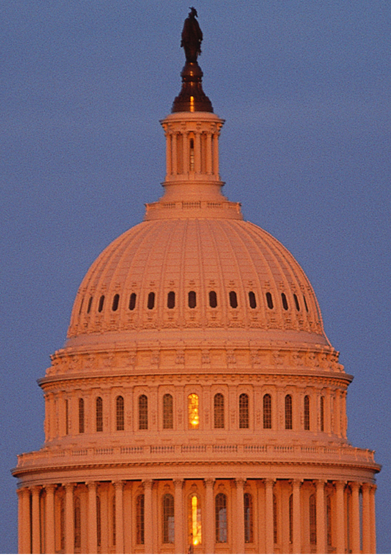

No. 2022-147
May 13, 2022

Notice 2022-27: Six-month extension allowing retirement plan elections and spousal consents to be signed remotely (COVID-19)

The IRS today released an advance version of Notice 2022-27 that extends for an additional six months—through December 31, 2022—temporary relief from the rule that retirement plan elections requiring the signature of an individual participant (including spousal consents under section 417) must be witnessed in the physical presence of a plan representative or notary public.

The relief from the physical-presence witnessing requirement was offered in response to the coronavirus (COVID-19) pandemic in 2020.

Notice 2022-27 [PDF 89 KB] extends the relief from the physical-presence witnessing requirement for the six-month period from July 1, 2022, through December 31, 2022. Thus, for that six-month period, a plan may qualify for relief from the physical-presence requirement for any participant election witnessed by a notary public or a plan representative using an electronic system that satisfies requirements as specified by Notice 2021-3.

Today's notice also states that the IRS and Treasury Department are reviewing comments to determine whether to retain the physical presence requirement without modification or to propose to modify the requirement. If the IRS and Treasury decide to propose to modify the physical presence requirement, they will do so only through the regulatory process, which will include the opportunity for further comment.

Background

Temporary relief from the "physical presence requirement" of Reg. section 1.401(a)-21(d)(6) for certain participants was previously provided by:

- Notice 2020-42 for 2020 (January 1, 2020, through December 31, 2020)—read ***TaxNewsFlash***
- Notice 2021-3 (through June 30, 2021)—read ***TaxNewsFlash***
- Notice 2021-40 (through June 30, 2022)—read ***TaxNewsFlash***

The relief is intended to facilitate the payment of coronavirus-related distributions and plan loans to qualified individuals, as permitted by a provision of the "Coronavirus Aid, Relief, and Economic Security Act" (CARES Act) (Pub. L. No. 116-136). Under the CARES Act, certain individuals may receive up to $100,000 as a coronavirus-related distribution or as a loan from an eligible retirement plan.

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