

IMPORTANT NOTICE TO SPONSORS OF CASH BALANCE PLANS

From RPS Consulting Services

The American Retirement Association (ARA) announced that they are working with Congress on a legislative solution that would allow plan sponsors of a Defined Contribution plan, such as a 401(k) or 403(b) plan, to suspend any required employer contributions for 2020, and

That plan sponsors with less than 500 participants would be allowed to waive any employer contributions that have not yet been made to satisfy their 2019 obligations and of course to waive any 2020 funding requirements.

*Please note: this is something ARA **is proposing** to Congress but has not been passed. IF this legislation is passed and signed into law, it could make the following process a moot point since mandatory funding would not be required. Nevertheless, we felt it important to get this information to you now while you still have the flexibility to take the measures we have outlined below.*

*Nathan Carlson
President*

The COVID-19 virus has suddenly placed our nation into uncharted territory and the wild financial market reflects this. A few of our clients have requested an explanation of the options available to Cash Balance plans. You are a client of RPS with a Cash Balance plan and this email is to alert you to a possible consideration.

Your Cash Balance plan has a plan year that began 1/1/2020 and ends 12/31/2020, and it also contains a benefit accrual requirement that someone must work at least 1,000 hours in 2020 before accruing a new, 2020 benefit. Prior to anyone working 1,000 hours in 2020, you have the option of freezing your plan so that new benefits in 2020 do not accrue.

What does "freezing" my Cash Balance plan mean?

It means that new Cash Balance benefits in 2020 will not be given to your plan participants.

If I freeze my plan, can I unfreeze it later?

Yes, you can later unfreeze it at any time prior to the end of the plan year, in which case, the benefits that are stated in your Cash balance plan will be given to your plan participants. You can unfreeze it later in 2020, if you wish, or keep it frozen into 2021 (and beyond).

How do I freeze my plan?

This must be done via an amendment to your Cash Balance plan document (prepared by RPS) and must be done prior to anyone working 1,000 hours in your 2020 plan year. The RPS fee is \$300 for this plan amendment, the associated notices, and a corporate resolution authorizing the change.

Must I notify my employees when I freeze my plan?

Yes, RPS will prepare an employee notice for you to distribute and this notice must be given to your employees 15 days prior to the freeze date. (This notice period increases to 45 days for large Cash Balance plans with over 100 plan participants.) Please note that time is of the essence for large Cash Balance plans since the freeze date must occur before anyone has worked 1,000 hours in 2020.

How do I later unfreeze my plan?

This must also be done via a plan amendment, resolution, and an employee notice. You must notify RPS if you later wish to unfreeze your plan and we will prepare the amendment, corporate resolution, and the employee notice. Please note that a second \$300 fee applies for this amendment, resolution, and employee notice.

If I freeze my plan, do I still have to file the annual IRS 5500 form?

Yes, this annual IRS 5500 form (a signature-ready form prepared by RPS) is due by 7/31/2020, unless extended to 10/15/2020. When Congress



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passed the SECURE Act in 2019, it increased the penalties for late filing of the IRS 5500 to \$250/day.

In addition, if your plan is subject to the PBGC, the PBGC Form and the PBGC premiums must be filed and premiums paid by October 15, 2020.

RPS will be preparing both forms as a part of our normal service to your plan.

Please note that freezing your plan does not materially impact the amount of administrative services that RPS will provide for you but it will decrease your funding requirement.

Will freezing my plan eliminate all my funding obligations to my Cash Balance plan?

Freezing the plan will stop NEW benefits from accruing in your Cash Balance plan but does not eliminate any funding requirements derived from prior plan years or from inadequate trust earnings from prior plan years.

For example, if the RPS actuary has given you a funding range for the 2019 plan year, that funding requirement still exists and the money must be contributed prior to the tax-filing due date of your 2019 tax return, including extensions. Our actuary has (or will) give you a 2019-funding range from the Minimum Required Contribution to the Maximum Deductible Contribution.

The Minimum Required Contribution amount is the amount of the contribution that must be contributed to your Cash Balance plan by the due date of your 2019 tax return, including extensions, but no later than 9/15/2020 (8½ months after the end of your plan year.)

The Maximum Deductible Contribution is the maximum amount that your CPA can show as a deduction on your 2019 tax return.

In addition, our actuary and your Plan Analyst has (or will) provided a Recommended Contribution Amount that is usually greater than the Minimum Required Contribution.



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What happens if I do not make my Minimum Required Contribution for the 2019 plan year?

If you do not contribute the Minimum Required Contribution amount for the 2019 plan year, the IRS will assess a penalty equal to 10% of the required contribution. This penalty continues each year until the funding of the Cash Balance plan is brought up to at least the minimum level.

Please note that although contributing only the Minimum Required Contribution amount eliminates this 10% penalty, if your plan is subject to the PBGC, your PBGC premium may increase if the Cash Balance plan is not adequately funded. (For Cash Balance plans that are not subject to the PBGC, this point does not apply.)

Also note that if your Cash Balance plan is not funded at the level recommended by our actuary, plan distributions to Highly Compensated Employees (more than 5% owners and those who earned over \$125,000 in 2019) may be restricted. These restrictions can also apply if the plan investments do not keep up with the expected interest rate.

Given the depressed state of the financial market, how quickly can I make my 2019 Cash Balance funding?

As soon as the RPS actuary has given you your 2019 contribution amount, you can completely fund your Cash Balance plan. (Please talk with your financial adviser regarding the appropriate time to invest these funds.) If you wish to make a contribution prior to receiving this information, please contact your Plan Analyst and we will get you an estimated amount.

If you are interested in also making an estimated contribution for the 2020 plan year, let us know and we will provide an estimated amount.

If my Cash Balance trust account does not earn the required return, am I required to make up for investment losses?

(Note, most Cash Balance plans contain an assumed fixed investment rate of return of 4% or 5%.)





Yes, any earnings of less than the stated amount in your Cash Balance plan must be made up through additional employer contributions, but this is done gradually over 7 years. For example, if the trust should have earned \$50,000 in 2020 (based upon your plan's assumed fixed rate of return) and it instead lost \$20,000 (a difference of \$70,000), approximately 1/7th of \$70,000 (\$10,000) would need to be contributed in 2021 for the 2020 plan year to make up for the lost earnings. (This amount would be in addition to any other funding that may be required.)

Next Steps:

Please contact your Plan Analyst if you wish for us to proceed with freezing your Cash Balance plan.

**Thank you,
The Consulting Team at RPS**