



# Can a Former Employee Roll a Coronavirus-Related Distribution Back into our Plan?

## Facts

Earlier this year, we decided to make the CARES Act coronavirus-related distributions (CRDs) available to participant in our 401(k) plan. We know that it is possible for participants to repay CRDs, but we didn't anticipate any would be interested in that option. We're glad that some do now want to repay, but we want to be sure we handle these correctly. One of them is a former employee who has since withdrawn her entire account balance.

## Question

Can this former employee roll her CRD back into our 401(k) plan?

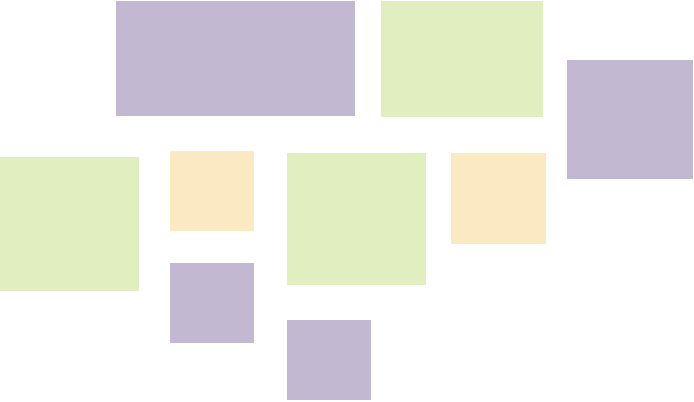
## Answer

The short answer...no, your former employee's only options are to rollover her CRD into an IRA or a new employer's plan (if permitted by that plan). But don't worry, we'll get to the longer answer in a second.

First, a quick review. Typically, a participant who receives a cash distribution has up to 60 days to roll that amount into another plan or an IRA in order to defer the tax. For [coronavirus-related distributions \(CRDs\)](#), that indirect rollover period is extended to 3 years from the date the CRD is paid. Plan sponsors are generally permitted to rely on a participant's representation of his/her eligibility to make the rollover unless they have actual knowledge to the contrary.

A participant can roll a CRD to an IRA or a company-sponsored plan that otherwise accepts indirect rollovers. The thing to remember when it comes to company-sponsored plans is that they can only accept rollovers from participants or, in some cases (if specified in the plan document), new hires who haven't yet met the plan's eligibility requirements (often referred to as "eligible employees"). A former employee who has taken a full distribution is neither a participant nor an eligible employee, so s/he is not able to roll the CRD (or any other distributed amount) back into your plan even within the applicable timeframes.

What about a situation in which the former employee still has an account balance in your plan? That is a bit trickier, as there isn't much in the way of clear guidance. Some take the position that since the individual is still treated as a participant (at least on a limited basis) as long as there is still a vested account balance, s/he should be able to roll in otherwise eligible amounts. Others point out that while a former employee with a balance is entitled to all of the regular fiduciary and other legal protections, the fact that s/he is not allowed to make other types of contributions supports a conclusion that rollovers would also not be permitted. Since most plan documents give sponsors the ability to establish a nondiscriminatory policy for when/how the plan will accept rollovers, the conservative approach would be to set a policy that the plan will not accept rollovers from terminated participants under any circumstances, even if they still have balances in the plan.



Have other questions coming your way as participants start planning for year-end and beyond? Finding you need some enhanced plan design options as you work through 2020 corporate tax planning? If so, [DWC](#) is glad to assist!



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