



IRS Extends Temporary Relief from Physical Presence Requirement Again

May 24, 2022

On May 13, 2022, the IRS released Notice 2022-27, which extends the COVID-19 temporary relief from the physical presence requirement for certain retirement plan elections.

Under IRS regulations, certain retirement plan participant elections (such as a spousal consent to a waiver of a qualified joint and survivor annuity) must be witnessed in the physical presence of a plan representative or a notary public. An electronic system can be used to satisfy the physical presence requirement if the system provides the same safeguards for the elections.

Previously, the IRS issued Notices 2020-42, 2021-3 and 2021-40 providing relief from the physical presence requirement for participant elections witnessed by a notary public of a state that permits remote electronic notarization or a plan representative if certain conditions were satisfied. Those notices provided relief from 2020 to June 30, 2022. (For further details on IRS Notices 2020-42, 2021-3 and 2021-40, please see, respectively, our [June 9, 2020](#), [January 5, 2021](#) and [July 7, 2021](#), *Compliance Corner* editions.)

Notice 2022-27 provides an additional six-month extension of this temporary assistance through December 31, 2022. The relief is optional, i.e., a participant can still have an election witnessed in the physical presence of a notary accepted by a plan.

Additionally, the IRS confirmed that they are reviewing comments from stakeholders that they received pursuant to the previous notices. That feedback was sought on whether relief from the physical presence requirement should be made permanent.

Sponsors of retirement plans should be aware of the further extension of temporary relief from the physical presence requirement for participant elections.

[Notice 2022-27 »](#)

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