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Retirement Services

# CARES Act Summary

## Retirement Plans and Plan Sponsors

March 2020

The Coronavirus Aid, Relief and Economic Security Act was signed into law by President Trump on Friday afternoon, March 27, 2020 (“CARES Act”). The CARES Act is a federal stimulus package designed to inject more than $2 trillion into the American economy as aid for individuals (primarily through direct issuance of checks to families), states and businesses struggling with the widespread economic consequences of the COVID-19 pandemic.

The Act’s retirement plan provisions:

- Provide greater flexibility for retirement plan participants to access loans and distributions
- Waive the retirement plan and IRA minimum distribution requirements for 2020
- Give defined benefit plan sponsors relief for funding obligations arising during the 2020 plan year.

## RETIREMENT PLAN PROVISIONS

Coronavirus-Related Distributions

The Act allows plan sponsors to amend their retirement plans to allow certain participants to take penalty-free distributions from qualified retirement plans. This provision is optional and if added to retirement plans, these coronavirus-related distributions allow participants to take a distribution of up to $100,000 if:

- They are diagnosed with COVID-19 (or whose spouses or dependents have been diagnosed with COVID-19); or
- They have experienced financial hardship from quarantine, layoffs, reduced hours, or furlough between now and December 31, 2020 (“COVID Impacted Participants”)

NOTE: While the standard 10% penalty for withdrawals under age 59-1/2 (except in the event of death or disability) is waived, the distributions remain subject to income tax.

The provision allows participants to *self-certify* that they meet the criteria to obtain such a distribution and it specifically provides that, if added, this distribution right can be eliminated as of the end of 2020.

The tax on these distributions can be spread out and paid over three years. Participants are permitted to repay that distribution to the plan within three years and avoid tax, without regard to the annual cap on contributions, if they so choose.

Plan Loans

The Act adds two provisions related to participant loans from retirement plans.

First, plan sponsors are permitted to allow for greater participant loans to COVID Impacted Participants.

If adopted by a plan sponsor during the 180-day period following enactment of the CARES Act, a COVID Impacted Participant is permitted to take loans totaling up to $100,000 from their plan account (otherwise, participant plan loans are limited to $50,000).

Such COVID-19 related loans can be in an amount equal to 100% of a participant’s vested plan balance (non COVID-19 loans retain the 50% limit of a participant’s vested plan balance).

Second, the Act provides that, with respect to a loan to a COVID Impacted Participant, any repayments that become due after enactment and before the end of 2020 will have an *extended due date* that is one year following the original due date. Remaining repayments for such loans are spread across the new extended loan term. It is unclear whether this provision is applicable to existing loans. The IRS and DOL are expected to provide guidance on this soon.

Plan Amendment Deadline

Plan sponsors have until the last day of the 2022 plan year to incorporate these changes into their plans. The plan may add one or both changes. Governmental plans have until the end of 2024 to amend their plans.

Required Minimum Distributions

The Act provides that no required minimum distributions from defined contribution plans or IRAs are *required* to be made for the 2020 calendar year. However, if any participants request their RMD, there are no provisions preventing this. This includes IRAs and 457 plans.

Although this provision does not discuss if any delinquent RMDs from prior plan years may be suspend, preliminary unofficial comments from the IRS indicate this will not extend to delinquent RMDs. Further guidance is anticipated soon.

Defined Benefit Plan Funding Relief

The Act allows sponsors of single-employer defined benefit pension plans to delay payment of minimum required contributions (including quarterly contributions) that would otherwise be due during the 2020 calendar year. The new due date for such contributions is January 1, 2021.

The amount of the minimum required contribution will be increased by interest accruing between the original due date and the payment date, at the effective rate of interest for the plan for the plan year that includes the payment date.

For plan years that include calendar year 2020, a plan sponsor is also permitted to elect to treat the plan's adjusted funding target attainment percentage for the last plan year ending before January 1, 2020 as the current percentage for purposes of determining funding status under Internal Revenue Code § 436 and ERISA § 206(g).

Compliance Deadlines may be extended

The Act amends ERISA to permit the Labor Secretary to provide extensions of certain ERISA compliance deadlines in the event of "a public health emergency declared by the Secretary of HHS. Such compliance extensions likely would be akin to the types of compliance extensions authorized by the Labor Secretary in response to presidentially declared disasters, such as the recently declared hurricane and wildfire disasters. We will monitor for DOL declarations of compliance deadline relief pursuant to the amended ERISA Section 518 in the coming weeks and months.

The expanded loan provision and the Corona-related distribution provisions are optional and can be implemented immediately subject to any requirements of your plan's recordkeeper. Prior to enacting any of these optional provisions, you may consider whether your plan participants need greater access to funds. We will gladly assist in your decisionmaking and in communicating any plan changes you wish to make.

We will keep you informed of new developments affecting your retirement plan going forward. Please do not hesitate to reach out to your consultant with any questions.

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