FINDLEY post

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The CARES Act's Potential Impact on Retirement Plans

By Sheila Ninneman

After several days of intense negotiations between Senate leadership and the Executive branch, the *Coronavirus Aid, Relief, and Economic Security Act* (the "CARES Act" or "Act") was passed by the House on Friday, March 27th. The CARES Act will provide $2.2 trillion to fund responses to the economic impacts of the COVID-19 (coronavirus) pandemic.

The CARES Act is a very extensive piece of legislation that is meant to provide emergency assistance to large and small distressed businesses, in order to stabilize the U.S. economy that has been hammered by this pandemic. By now, almost everyone has likely heard about provisions of the Act that provide direct payments of $1,200 to individuals, and those that provide employers whose business is fully or partially suspended as a result of COVID-19, with tax credits intended to allow them to keep paying employees on furlough. This bill covers a lot more of those highly publicized provisions. This article will specifically focus on the provisions that directly impact tax-qualified retirement plans.

Coronavirus Related Plan Distributions

The Act provides rules for the optional provision of special coronavirus-related distributions from eligible retirement plans and IRAs that do not exceed $100,000 for any taxable year. Under the Act, the distribution would not be subject to the 10% penalty on distributions to individuals who have not yet reached age 59-1/2. Additionally, the mandatory 20% withholding tax on these distributions would not apply. The following rules apply to these special distributions:

- Individuals who are eligible for this distribution must be participants (or their spouse or dependents) who are diagnosed with SARS-CoV-2 or COVID-19 by a test approved by the Centers for Disease Control (CDC) or who experiences adverse financial circumstances as a result of being quarantined, laid off, furloughed or who suffer reduced working hours, or who are unable to work because of the lack of child care.
- A plan can rely on a participant's certification of their eligibility for the distribution.
- Amounts distributed can later be repaid to a qualified plan, or an IRA provided it is an account to which a rollover contribution could be made.
- The repayment of the distribution can be made at any time over the three-year period that begins on the date the distribution was received.
- The distribution can be spread out for tax purposes ratably over the three taxable years beginning with the taxable year of the distribution to the extent that the distribution is not repaid.
- These distributions will be treated as satisfying the requirements for hardship distributions from a 401(k) plan.

Plan loans

The CARES Act increases the maximum dollar amount available for loans from tax-qualified plans from $50,000 to $100,000, and increases the maximum percentage limit for loans from 50% of the present value of a participant's benefit to 100% of the present value of a participant's benefit under the plan.

The new due date for any plan loan with a current due date beginning on the date of the enactment of the CARES Act (presumably the date it is signed into law) and ending on December 31, 2020 will be extended for one year, or if later, until the date that is 180 days after the date of the Act's enactment. For this purpose, the 5-year limit on plan loan repayments is disregarded.

Required Minimum Distributions - The CARES Act provides a one-year delay in required minimum distributions (RMDs) from 401(a), 403(b), 457 plans, as well as from IRAs. At this point, it does not appear that the delay will apply to defined benefit pension plans.

This delay applies to RMDs due April 1, 2020, as well as to 2020 RMDs. In addition, the Act permits amounts subject to the RMD rules in 2020 to be rolled over.

Minimum Funding Contributions - Minimum funding contributions for tax-qualified plans, including quarterly contributions, may be delayed until January 1, 2021 under the CARES Act. However, interest will accrue for the period between the contribution's original due date and the payment date, at the plan's effective rate of interest for the plan year in which the payment is made.

Funding Status - The Act also permits a plan sponsor to elect to treat the plan's 2019 adjusted funding target attainment percentage (AFTAP) (which may subject the plan to certain benefit restrictions if the AFTAP is below 80%) as the AFTAP for the 2020 plan year.

Certain filing dates - The CARES Act allows the Secretary of the Department of Labor to postpone certain filing deadlines for up to one year. The prerequisite is that the Secretary of the Department of Health and Human Services must declare a "public health emergency," which was already done on January 31, 2020.

Effective date - The revisions and expansions made by the CARES Act, as described above, apply for calendar years beginning after December 31, 2019. Plans would need to be amended to reflect these new rules by the last day of the plan year beginning on or after January 1, 2022. For calendar year plans, the due date is December 31, 2022. For governmental plans, the due date is the last day of the plan year beginning on or after January 1, 2024.

What Plan Sponsors should do

Plan sponsors should review their plans in light of the provisions of the CARES Act, and work with their service providers to execute the appropriate changes that apply for them. If you have any questions about what the CARES Act entails for you please contact the Findley consultant you regularly work with or Sheila Ninneman at *Sheila.Ninneman@findley.com*, or *216.875.1927*.