CARES Act Legislation Summary

On March 27, 2020, the Coronavirus, Aid, Relief and Economic Security (CARES) Act (the "Act") was signed into law. A portion of the Act is intended to loosen access to retirement plan funds for individuals impacted by the COVID-19 pandemic. The following is a summary of the retirement-related provisions of the Act:

- **Coronavirus-related distribution (CRD)**
    - Waiver of 10% penalty on early withdrawals for amounts up to $100,000 from a retirement plan or IRA taken between January 1, 2020, and December 31, 2020 (so can be retroactively applied to distributions taken before the enactment of the Act)
    - CRDs are only available to a *qualified individual* (see "qualified individual" below)
    - Individuals are allowed to pay the tax on a CRD ratably over three years; and
    - Individuals are allowed to repay the CRD to the plan, tax-free, over the three years from the date of the withdrawal (not limited by plan limits). Maybe repaid into the plan allowing the withdrawal, another qualified plan or an IRA that accepts rollovers.
    - Plan sponsor has discretion whether to offer this design in their qualified plan
- **Plan loans**
    - For participant loans taken from plans between the enactment of the Act and September 23, 2020, loan limits are increased for *qualified individuals* (see "qualified individual" below) to the lesser of:
        - $100,000; or
        - 100% of their vested account balance.
    - *Qualified individuals* (see "qualified individual" below) with *existing outstanding loans* with repayment due from the date of enactment of the Act through December 31, 2020 may delay loan repayments for up to one year. The plan can choose to extend the term of the loan for up to a year as well. Doing so would allow participants to avoid financial hardship when they do resume repayment by keeping their repayment amount the same as before the suspension of the repayment. These loans will continue to accrue interest during the period of the suspension of repayments.
    - Plan sponsor has discretion whether to offer these design elements in their qualified plan

- **Qualified individual**

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- Eligibility for the CRD and the adjustment to the loan limits is conditioned upon an individual meeting one of the following criteria:
  - Is diagnosed with COVID-19;
  - Whose spouse, or dependent (as defined by the Internal Revenue Code) is diagnosed with COVID-19;
  - Who experiences adverse financial consequences due to furlough, quarantine, layoff, reduction in hours, inability to work due to lack of child care due to COVID-19, or closing of business/reduction of hours by the individual due to COVID-19; or
  - Factors determined by the Secretary of the Treasury
- Importantly, the Act does not require the plan sponsor to verify whether an individual qualifies for the COVID-19 adjusted loan limits or the CRD. The plan sponsor may rely upon a *participant's certification* for eligibility.

- **Required minimum distributions**
  - The Act waives RMD payments for 2020.
    - Includes RMD attributable to 2019, which was not paid by January 1, 2020;
    - Includes RMD if already made in 2020; but
    - It does *not* include RMD distributions that were made in 2019.
  - For RMDs that were already made in 2020 the participant may defer taxes and roll it back to the plan from which it was made or roll it to another qualified plan or IRA which accepts rollovers. Additional guidance regarding any potential impact on the 60 day rollover period is expected from the IRS.

- **Defined benefit and money purchase pension plans**
  - The Act allows these plans to delay any contributions due in the calendar year 2020 (including all quarterly contributions) until January 1, 2021. The new January 1, 2021, due date applies for all quarterly contributions (they would no longer be separately due).
  - Leveraging the delayed due date would subject the employer to interest on the delayed contributions from the original due date(s) at the effective rate for the plan year that includes the date of payment.
  - Plan sponsors should expect leveraging delay should lead to higher contributions in 2021.

- **Reporting and notices**
  - The Act empowers the Department of Labor to extend certain deadlines for notices – more information expected in the coming weeks.

Plans can adopt the new rules immediately. The plan will eventually need to be amended on or before the last day of the first plan year beginning on or after January 1, 2022, or later if prescribed by the Secretary of the Treasury.

For any questions related to the CARES Act, your plan, or how it impacts your employees and participants, please do not hesitate to contact your Plan Advisor.

Source: https://www.napa-net.org/sites/napa-net.org/files/CAREs%20Act%20revised_032220.pdf

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