RETIREMENT CHANGES TO CARE ABOUT

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The Coronavirus Aid, Relief and Economic Security (CARES) Act not only distributes over $2,000,000,000 in aid, but it also impacts retirement plans.

Required Minimum Distributions

The CARES Act waives the Required Minimum Distribution rules for the calendar year 2020. This allows individuals who were required to take a distribution in 2020 to avoid having to take a distribution and sell assets in a down market. This also applies to Inherited IRAs. This will allow investments to recover during 2020 after the Coronavirus threat subsides. With the SECURE Act, any individual turning 70½ prior to January 1, 2020 is subject to the minimum distribution rules for 2020. Anyone turning 70½ after December 31, 2019 is not subject to required minimum distributions until age 72.

This waiver also includes RMDs for individuals who turned 70 ½ last year and postponed their initial distribution that would otherwise need to be distributed by April 1, 2020. Some companies may need to amend their retirement plan documents unless the document incorporates by reference the funding rules under IRC 401(a)(9).

Unlike defined contribution plans such as a 401K plan, Defined Benefit Pension Plans are still subject to funding requirements as outlined in the Code. That may mean that employers operating such plans could face an increased funding obligation in future years to make up for the losses and declining interest rates in 2020.

Penalty for Distributions

With a few exceptions, individuals under age 59 ½ are subject to the 72(t) 10% penalty tax if they withdraw money from their account. The CARES Act removes the 10% early withdrawal penalty for Coronavirus. Coronavirus-related distributions are defined as distributions made during the 2020 calendar year to individuals who (1) are diagnosed with COVID-19 by a test approved by the Centers for Disease Control and Prevention; (2) have a spouse or dependent who is so diagnosed; or (3) experienced adverse financial consequences as a result of being quarantined, furloughed or laid off, reduced work hours, lack of child care, reduced hours of a business that they own or operate. In each case due to COVID-19, or other factors, as determined by the Secretary of Treasury. Employers can rely on a participant's self-certification that they meet the requirements of a Coronavirus distribution.

It is important to note, this type of withdrawal will reduce the surrender value of the contract and may affect other guaranteed and non-guaranteed features. Surrender penalties may be assessed, based on contract provisions. It is encouraged for those considering this type of distribution to consult with their tax advisor.

Since the effective date for eliminating the 10% penalty for coronavirus related distributions is January 1, 2020, if someone took a distribution on February 1, they may avoid the 10% penalty.

Not only did the act eliminate the 10% penalty for coronavirus related distributions, but it also spreads the income tax liability over a three taxable-year period beginning with the year in which the distribution is made. In addition, the CARES Act allows individuals to re-contribute any distribution taken under this Act into an eligible retirement account within the following three-year period. However, much is re-contributed up to the full amount withdrawn, is not subject to tax. The government still must promulgate the rules for taxation that may have already been incurred prior to the re-contribution.

Retirement Plan Loans

The CARES Act expands the ability to obtain loans from defined contribution plans such as a 401k plan. Beginning on the enactment date of March 27, 2020 for a 180-day period, loans from applicable retirement plans will not be treated as distributions if they do not exceed the lesser of $100,000 (formerly $50,000) reduced (if there is an outstanding loan) by (X) the excess of the plan's highest outstanding loan balance during the one-year period on the day before the date on which the loan is made over (Y) the plan's outstanding loan balance on the date on which the loan is made; or the greater of (X) the present value of the accrued benefits under the plan or (Y) $10,000.

Most retirement plans limit the number of loans that can be outstanding to one loan and the CARES Act won't automatically change the plan document. Hopefully, many employers will change the document to allow for more than one loan.

The Act also provides relief on current outstanding loans. If an individual has a loan outstanding from their retirement plan on or after March 27, 2020, and the loan has a repayment date during the period beginning on that date and ending on December 31, 2020, the repayment date will be delayed by one year. Any subsequent repayments concerning such a loan will be adjusted to reflect the delayed due date and any interest accrued during the delay. In addition, the delayed due date will be disregarded for purposes of determining the term of the loan and whether the loan's term satisfies the five-year repayment period under the applicable provisions of the U.S. Internal Revenue Code of 1986.

Please keep in mind that the CDRs (loans and hardship) are only eligible for qualified participants as defined under the statute.

The mechanics of the loan provision have not been fully developed into regulations that will come later.

Miscellaneous

The mandatory 20% income tax withholding for corona virus related rollover eligible distributions is suspended during this period. An in-service distribution from a qualified plan also is permitted if it is coronavirus related.

Individual tax returns are not due until July 15, 2020. To ensure that IRA and Roth IRA contributions are applied to the correct year, clients must: include "2019" in the memo section on checks; or state that the contribution is for 2019 in letters of intent. Otherwise, it will be considered contributions to be for the 2020 tax year. It is required for policyholders to submit excess contribution forms should they notice later that contributions are for the incorrect tax year. Please note that SEP funds are posted for the year we receive them.

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