Congress Approves the CARES Act

The House of Representatives passed the Coronavirus, Aid, Relief and Economic Security (CARES) Act on March 27, 2020, two days after the Senate passed it in a unanimous vote. It is expected to be signed into law by the President momentarily. The $2 trillion dollar stimulus bill has far-reaching implications, including many items that directly impact retirement plans. Below is a summary of provisions that affect retirement plan participants and plan sponsors.

Early Distributions

The CARES Act creates a new retirement plan distribution option that is being called a "Coronavirus Related Distribution," or "CRD." The Act waives the 10 percent early distribution penalty tax on plan distributions of up to $100,000 for any "qualified individual" who has not met age 59½, and who:

- is diagnosed with COVID-19,
- whose spouse or dependent is diagnosed with COVID-19,
- who experiences adverse financial consequences as a result of being quarantined, furloughed, laid off, having work hours reduced, being unable to work due to lack of child care due to COVID-19, closing or reducing hours of a business owned or operated by the individual due to COVID-19, or
- meets other factors as determined by the Treasury Secretary.

The plan administrator can rely on a participant's certification that they meet one of these requirements.

While these distributions will generally still be taxable, the Act allows Federal income taxes to be paid ratably over a three-year period. In addition, to avoid the taxation on the distribution, the Act permits the participant to repay these amounts to the plan within three years to avoid taxation. The repayments are not subject to plan contribution limits. Some states may tax these distributions immediately, others may choose to offer similar relief.

For more information on considerations to make before taking an early distribution from a retirement plan, see our Blog article Is Taking from your 401(k) Plan During COVID-19 the Right Choice?

Plan Loans

Participant loans are normally limited to the lesser of $50,000 or 50 percent of a participant's vested balance. The Act doubles this limit to be the lesser of $100,000 or 100 percent of a participant's vested account in the plan. In addition, individuals with existing plan loans can delay loan repayments for up to one year.

This $100,000 loan limit relief is available for loans taken between now and September 23, 2020 (180 days after the law was enacted). These higher loans are also limited to "qualified individuals" as described above.

Defined Benefit and Cash Balance Plan Funding Relief

The Act allows any defined benefit plan contribution due during 2020 to be delayed until January 1, 2021. Interest will accrue (payable to the plan) on any delayed contribution.

The plan's AFTAP as of December 31, 2019 may be treated as the AFTAP for the 2020 plan year.

Required Minimum Distributions

The Act waives the 2020 required minimum distributions (RMDs) from defined contribution plans including 401(k), 403(b), profit sharing, 457(b) and Individual Retirement Accounts. This includes RMDs that were due for 2019 by April 1, 2020, and any RMD due for calendar year 2020. RMDs for 2020 will be eligible for rollover treatment. This waiver does not apply to defined benefit plans.

Plan Amendments

Plan amendments for all provisions will be required on or before the last day of the first plan year beginning on or after January 1, 2022, or such later date as may be prescribed by the Secretary of the Treasury.

The expanded hardship and loan provisions can be implemented immediately, even if the plan currently does not permit an option for hardship distributions or loans.

Authority to Extend Compliance Deadlines

The Act provides the U.S. Department of Labor with expanded authority to postpone certain deadlines under ERISA. The Act increases DOL's authority it already had to postpone deadlines during certain terrorist or military actions to include a public health emergency.