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 and provide relief 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 prior to enactment of the Act)
- CRDs are only available to a qualified individual (see "qualified individual" below)
- Individuals may elect to pay the tax on a CRD ratably over a three year period; and
- Individuals may elect to repay the CRD back to the plan, tax-free, over the three years from the date of the withdrawal (not limited by plan limits). May be repaid back into the plan allowing the withdrawal, another qualified plan or an IRA that accepts rollovers.
- Plan sponsor has discretion whether to offer this design, with modifications (if so desired and their service provider can accommodate), in their qualified plan
- Act does not limit a CRD to active employees (should check with service provider if they will allow CRDs to terminated participants)

PLAN LOANS

- For participant loans taken from plans between enactment of the Act and September 23, 2020, loan limits may be increased for qualified individuals (see "qualified individual" below) to the lesser of:
  - $100,000; or
  - 100% of their vested account balance.
  - Plan sponsors may elect to set a lower limit, but cannot allow for loans that exceed these limits
- Qualified individuals (see "qualified individual" below) with existing outstanding loans with a repayment due from the date of enactment of the Act through December 31, 2020 may delay each of those loan repayments for up to one year. Loan repayments will resume with the first repayment due on or after January 1, 2021. Interest will accrue on the delayed payments. The plan can choose to extend the term of the loan for the period of delay (equal to the first payment delayed through December 31, 2020) as well. Doing so would allow participants to avoid a financial hardship when they do resume repayment by keeping their repayment amount close to the same amount (adjusted within the reamortization for interest accrued) as prior to the suspension of the repayment.
- Plan sponsor has discretion whether to implement these design elements, with modifications (if so desired and their service provider can accommodate), in their qualified plan

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QUALIFIED INDIVIDUAL

- Eligibility for the CRD and the adjustment to the loan limits is conditioned upon a participant 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 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.
- Also important to note, the emphasized word "participant" above. A spouse experiencing any of the third bullet does not qualify.

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 made prior to enactment of the Act in 2020; but
    - Does not include RMD distributions that were made in 2019.
- For RMDs that were made prior to enactment of the Act 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 to the 60 day rollover period is expected from the IRS.

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.