

CARES Act waives RMDs and provides greater access to employee benefits in the wake of coronavirus

01 APRIL 2020

CATEGORY:
ARTICLE



The “Coronavirus Aid, Relief, and Economic Security Act” (“ CARES Act” or “the Act”), an estimated \$2 trillion stimulus package in response to the enormous health and economic damage caused by the novel coronavirus (“COVID-19”), was signed into law on Friday, March 27, 2020. The Act focuses on providing immediate funding measures for businesses and households being financially crippled by the pandemic. The CARES Act also offers relief in the realm of IRAs and Qualified Plans, as well as employer-provided assistance with student loans, under the Internal Revenue Code (“the Code”). The Act provides greater immediate access to retirement funds by eliminating required minimum distributions for all individuals, and, for those negatively impacted by COVID-19, waiving penalties on early distributions and expanding plan loan provisions.

1. Required Minimum Distributions (“RMDs”) Waived for IRAs and Qualified Plans

RMDs for the 2020 calendar year are waived under the CARES Act. This one-time, 2020 waiver applies to RMDs from IRAs, defined contribution plans, 403(a) annuities, 403(b) plans and certain 457(b) plans, as well as inherited IRAs and retirement accounts. This treatment acts as a complete waiver, not a deferral or postponement, of such RMDs.

However, consult with your tax professional to determine if it would be prudent to take a distribution, regardless of this relief, based on your potentially lower tax rate for 2020. Also, the due date for making IRA contributions for the 2019 year has been extended to July 15, 2020, by IRS Notice 2020-18.

2. Early Withdrawals Liberalized

The CARES Act waives the 10% withdrawal penalty on early distributions from qualified retirement accounts (i.e., distributions before age 59 ½) for those impacted by COVID-19. This waiver is applicable for distributions of up to \$100,000 (aggregated, per individual) that qualify as a “coronavirus-related distribution.” These withdrawals can generally be made from IRAs, 401(k) plans, profit-sharing and other defined contribution plans, 403(b) plans, and 457(b) plans.

A “coronavirus-related distribution” is one made on or after January 1, 2020 and prior to December 31, 2020 to an individual who has: (a) personally been diagnosed with COVID-19; (b) a spouse or dependent who has been diagnosed with COVID-19; or (c) personally experienced adverse financial consequences as a result of COVID-19’s impact on his or her employment. The factors listed in the Act as constituting such a COVID-19 impact include: quarantine, furlough, lay-off, reduction of hours, inability to work due to lack of child care, and reduction or closure of the individual’s small business, as well as other factors that may be later enumerated. An employee’s certification that he or she meets this requirement is sufficient to qualify for the distribution.

Income taxes owed on these distributions can be paid ratably over 3 years, at the individual’s election. There is no mandatory withholding on coronavirus-related distributions. Alternatively, the individual who received a coronavirus-related distribution can recontribute these funds to an eligible plan in which the individual is a beneficiary within 3 years. This repayment can be made in one or more contributions and is not subject to the annual cap on an individual’s contributions to the plan.

3. Plan Loans Expanded

The CARES Act offers greater flexibility for obtaining and repaying retirement plan loans. The Code’s limit on loans from qualified plans has been increased; now, loans up to the lesser of \$100,000 or 100% of the account balance (increased from \$50,000 and 50% of the account balance) can be taken from Qualified Plans. As with early withdrawals, the loan must qualify as coronavirus-related, as described above. Generally, these loans can be taken from Qualified Plans, 403(a) annuities, and 403(b) plans. Plans electing to extend plan loan availability must be amended on or

before the last day of the plan year beginning on or after January 1, 2022 (2024 for government plans).

Additionally, at the option of the participant, 2020 loan payments for outstanding loans can be deferred. Plan loan repayments would then be adjusted to account for accrued interest.

4. Funding for Single-Employer Defined Benefit Plans

For single-employer defined benefit plans, the due date for minimum required funding under Code Section 430(j) has been postponed to January 1, 2021. The amount required to be contributed will be increased by interest accrued from the original due date, at the plan's effective interest rate for that year. Plan sponsors may want to consider the tax effect of not making the contribution and the resulting loss of the deduction for 2019.

5. Authority for Further Postponements

The CARES Act has amended Section 518 of ERISA to expand the authority of the Department of Labor to postpone deadlines in light of a public health emergency, meaning additional postponements for Form 5500s and other ERISA-plan filings could be forthcoming.

6. Employer Assistance with Student Loans

Employers can provide student loan repayments to employees on a tax-free basis in 2020. Under the CARES Act, an employer can contribute up to an aggregate of \$5,250 this year for loan repayments and traditional educational assistance under Code Section 127, with such amounts not included in the employee's income. This provision presents a good opportunity for employers to provide employees with an enhanced, tax-free benefit in lieu of other bonuses or compensation.


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