Employee Benefit Plan Provisions of the CARES Act

The Coronavirus Aid, Relief, and Economic Security (CARES) Act contains several provisions that affect employee benefit plans, including 401(k) Plans (the most common employee retirement plan). (See CARES Act SEC. 2202. SPECIAL RULES FOR USE OF RETIREMENT FUNDS.)

Please note that this material has been prepared for informational purposes only and is not intended to provide, nor should be relied upon for, tax advice. Consult with a certified tax professional, and/or your plan administrator, before making any changes/decisions.

KEY PROVISIONS INCLUDE:

Corona Related Distributions

- Added allowable in-service distributions
- Only available to "qualified individuals" (see below)
- Allows participants to take a coronavirus-related distribution of up to $100,000 from their retirement plan or IRA without a 10% early withdrawal penalty (although it is still a regular taxable distribution).
- Eligible distributions can be taken up to December 31, 2020 from an IRA or a qualified retirement plan.
- Coronavirus-related distributions may be repaid within three years, tax free, if the participant does not want to pay taxes on the distribution; or.
- Participants can elect to spread the inclusion of taxable income from distributions a three-year period.
- Plan sponsors should contact their Third-Party Administrator (TPA) to determine whether this can be offered through the design of the qualified plan. [see plan sponsor and trustee considerations below]

Participant Loans *from Qualified Plans*

For loans made from the period 3/27/2020-9/23/2020 (180 days from enactment of CARES Act):

- Participants can borrow up to $100,000 from qualified plans (an increase from $50,000 previously allowed) to a "qualified individual" (see below)
- Participants can take the full amount of their vested account balance (previously limited to 50%)
- Repayment can be delayed for up to one year (and this also extends the 5-year repayment period accordingly to six years).
- Existing loans with repayment due from the date of enactment through December 31, 2020 may delay repayments for up to one year. Plan can also choose to extend the term of the loan for one year, which will keep the payments amounts consistent throughout the entire repayment period.
- These loans with deferred/suspended repayments do continue to accrue interest.
- Note – not all retirement plans allow for loans, so be sure to check with your Plan Adoption Agreement or with your TPA to ensure that 401k loans are allowed (see also plan sponsor and trustee considerations below)

Qualified Individuals (for loans and distributions)

(I). Individual who is diagnosed with the virus
(II). Individual whose spouse or dependent is diagnosed with such virus
(III). Individual who experiences adverse financial consequences as a result of being quarantined, being furloughed or laid off or having work hours reduced due to such virus or disease, being unable to work due to lack of child care due to such virus or disease, closing or reducing hours of a business owned or operated by the individual due to such virus or disease

Required Minimum Distributions (RMDs)

- Temporarily suspends RMDs for 2020 (one-year delay for RMDs). (Sec. 2203. Temporary waiver of required minimum distribution rules for certain retirement plans and accounts.)
- Allows qualified individuals to skip both their 2019 RMD (if it was their first year and they had not yet made an RMD by April 1, 2020), and their 2020 RMD.
    - Depending on age limit following the SECURE Act, signed on December 20, 2019, allows RMDs by individuals whose birthday is July 1, 2019 or later to begin by April 1 of the year after they turn 72.

Plan sponsor and trustee considerations:

- Should review whether the Summary Plan Description allows loans for participants
- Plan amendments may be needed for the allowable coronavirus-related in-service distributions or loans
    - Changes to allow for these new rules can be adopted immediately without a formal plan amendment; however, a formal plan amendment will eventually be needed.
    - Plan contract amendments apply retroactively for such period.
- If participants have existing loans, trustee should determine whether more than one loan is allowed.
    - Plans may need to be amended to allow loans or increase the number of loans available to each participant.
- Internal control considerations:
    - For deferred loan repayments, payroll processes should be updated to reflect payment deferrals when processing paychecks.
    - Ensure that all loan and distribution requests are being handled in accordance with standard internal control processes and ensure that paperwork is maintained.
    - Communicate with TPA regarding setting up electronic processing if needed due to working remotely.
    - Ensure that adequate paperwork is maintained for supporting “qualified individual” requirements.
- Communicate with employees to consider researching investment advisor advice. A general rule of thumb is to attempt to leave money in the retirement account for as long as possible.

Plan Amendment Deadline

Plan sponsors may begin operating their plans in accordance with the CARES Act immediately. Plan sponsors will generally have until the end of the first plan year beginning on or after January 1, 2022 to amend their plans.

Single Employer Defined Benefit Plans (section 3608):

Defined Benefit Plan Employer contributions to single-employer defined benefit plans.

- The CARES Act defers 2020 minimum required contributions (including quarterly contributions) for single-employer plans to January 1, 2021.
- The amount of each deferred minimum required contribution shall be increased by interest accruing for the period between the original due date for the contribution and the payment date.

Still have questions? We can help.

Contact Destiny Flood, Senior Audit Manager, at dflood@ppandco.com or (408) 287-7911 for more information.