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The CARES Act and Retirement Plans: What You Need to Know

COVID-19 has created numerous challenges for our country, both medical and economic, creating an environment of uncertainty for Americans.

One piece of good news is the recently passed Coronavirus Aid, Relief, and Economic Security (CARES) Act, which will provide much-needed financial relief to taxpayers and businesses. It includes provisions to support both employers and plan participants in 2020. We have summarized some of the most pertinent retirement plan provisions below.

- **Premature distribution tax is waived**

Qualified participants may take coronavirus-related distributions of up to $100,000 without triggering the additional 10% premature distribution tax, if they meet any of these pandemic-specific criteria:

- The participant has been diagnosed with COVID-19 (as confirmed by a D-approved test)
- A spouse or dependent has been diagnosed with the virus
- Financial hardship due to being laid off, furloughed, quarantined, or having hours reduced
- Inability to work due to lack of child care
- The participant's own business had to close or reduce hours

Distribution would also be available for beneficiaries of deceased participants and for alternate payees. Any “eligible retirement plan” is permitted to make a coronavirus-related distribution; this includes qualified plans, IRAs, 401(k), 403(b), and 457(b) plans. The distribution limit waiver does not apply to defined benefit or money purchase plans.

The distribution is subject to ordinary income tax, which may be spread over a three-year period. The plan sponsor must give participants a notice that they can waive the withholding, or risk incurring costly penalties for failure to do so. Please contact your INTAC plan consultant to discuss all the details of this provision.

- **Increased loan limits, repayment extensions**

Loans of up to 100% of a qualified individual’s vested account or benefit are now allowed, up to $100,000, for loans made on or before September 23, 2020. In addition, loan payments that are due between enactment date and December 31, 2020 are delayed up to one year, and the five-year repayment period is also extended for one year. Interest continues to accrue during the delay period. If the participant terminates employment within the year, the loan can be converted to a distribution at that time.

NOTE: Plan sponsors must ensure that participant loans are not reported on Form 1099R as in default during the extended repayment period.

- **RMD requirement changes**

The CARES Act waives required minimum distributions (RMDs) due in 2020 from defined contribution qualified plans, 403(b) plans, IRAs, and governmental 457(b) plans. This will help participants avoid having to liquidate deflated investments and enable them to retain assets in their accounts, with time to recover their value.

- If the required start date was in 2020 and the plan has not yet distributed the first RMD, that RMD is also waived.

- If the RMD is due to death, the five-year maximum distribution period is determined disregarding 2020.

- The 2021 distributions will be based on the values at December 31, 2020, leading to lower RMDs at the time in a down market.

- **Adjust your match & safe harbor plan**

Match formulas and contributions to your safe harbor plan can always be modified during the plan year with the required amendments and notifications. Plan amendments and notifications will keep you in compliance but can take 30-60 days depending on several factors. Your pension consultant at INTAC can help you determine the most sensible modifications and explain the process.

- **Layoffs and furloughs**

Certain changes in your workforce could impact vesting payouts for participants and timing of distributions. For instance, a partial plan termination is determined after the end of the year if your eligible population changes by 20% or more; the impacted population would have an accelerated vesting event. Participant loan requirements are also affected for employees on unpaid leave of absence. Those employees with plan loans may forego making loan payments during the leave of absence, without triggering taxation of the loan, under certain circumstances. It is important that you contact your INTAC plan consultant to discuss how changes to your employee base may affect your plan.

- **Freezing defined benefit /cash balance plans**

There are options to freezing the required contributions for employees BEFORE an employee works 1000 hours for the year. These are typically done with a plan amendment. It is important that freezing any required employer contributions is done promptly, prior to the employee accruing more than 1000 hours (approximately mid-year).

- **Defined benefit investment allocations**

During this turbulent market environment, it is critical to make sure your defined benefit plan is appropriately allocated to meet the target rate of return. Since DB plans are driven by a committed rate of return, contact your financial advisor now to review investment allocations, discuss the potential impact on your plan's ongoing operation, and explore available modifications.

- **Pay service fees out of the plan or forfeitures**

If cash flow is tight, you may elect to use your plan assets or forfeitures to pay your plan service fees.

Additional information is available in these **FAQs from the American Retirement Association** as well as tips regarding loans, distributions, RMDs, and more from **FuturePlan by Ascensus**.

At INTAC, our plan consultants are working remotely but they are available to answer your questions by phone, email, or video conference. With the support of Ascensus, we are maintaining full data security, privacy, and compliance as well as accessibility to our team. Please don’t hesitate to reach out to your plan consultant to review your options and discuss best avenues to move ahead for your company’s retirement plan.