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# Coronavirus Aid, Relief, and Economic Security (CARES) Act

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**CARES Act Distributions**

The CARES Act waives the 10 percent early withdrawal penalty tax, typically applied to withdrawals taken by people who are under the age of 59 1/2, for withdrawals between January 1, 2020, and December 31, 2020. This waiver applies to early withdrawals up to $100,000 from a retirement plan or individual retirement account (IRA), and for an individual who has a COVID-19 event, defined as a person:

- who is diagnosed with COVID-19;
- whose spouse or dependent is diagnosed with COVID-19;
- who experiences adverse financial consequences resulting from COVID-19, including being quarantined, furloughed, laid off, having work hours reduced, experiencing COVID-19-related child care issues that impede one’s ability to work, or the closing or reduction of hours of a business owned or operated by an individual impacted by COVID-19; or
- other factors as determined by the Treasury Secretary.

The legislation also permits those individuals to pay the ordinary income taxes that would be due on the distribution ratably over a three-year period. In addition, it allows individuals to repay the amount withdrawn, tax-free, back into the plan over the next three years so that they can replenish their retirement savings. Those repayments would not be subject to the retirement plan contribution limits.

**Participant Loan Changes**

The provisions for retirement plans include specific relief for participant loans. A participant must have a COVID-19 related event (as noted in the above) to be eligible.

- **Plan Loan Dollar Limits Increased.** The Act temporarily increases the maximum amount available that a participant can borrow from $50,000 to $100,000 from his or her plan account balance. The Act also allows participants to borrow up to the lesser of $100,000 or 100 percent of his or her account balance, rather than the 50 percent limit under current rules. These loan limit increases are in effect for 180 days following the signing of the bill into law.
- **Extension for Loan Due Dates.** The Act provides a one-year extension for any loan payment due between now and December 31, 2020. It appears that remaining payments, plus applicable interest, can be re-amortized over the extended period.

At this time, further guidance has not been provided regarding missed loan payments for participants who do not have a COVID -19 event. According to current rules, participants will either need to make up payments or re-amortize the loan upon their return in order to pay the loan in full by the due date.

**Temporary Waiver of Required Minimum Distribution (RMD) Rules**

The CARES Act waives required minimum distributions (RMDs) for calendar year 2020 for defined contribution plans, including 401(k), 403(b), 457(b), as well as IRAs, allowing individuals to keep funds in their retirement plans. Here are the provisions:

- Under current law, individuals generally at age 72 must take an RMD from their defined contribution plans and IRAs
- Retirees who fall under the previous age 70 1/2 rules and are in payment status can waive the distribution for the 2020 calendar year
- The legislation also includes special rules regarding the waiver period to hold harmless those individuals (and plans) who took advantage of the RMD waiver for 2020

It is anticipated that further guidance from the IRS will be forthcoming. In the meantime, anyone who is due a required mandatory distribution should consult with his or her tax advisor.

**Plan Amendments**

For plan sponsors choosing to use the changes that the legislation permits, the legislation allows plans to adopt these distribution and loan provisions immediately, even if their current plan document does not allow for such distributions or loans.

If adopted, plans will need to be amended on or before the last day of the first plan year beginning on or after Jan. 1, 2022, or a later date if stated by the Treasury. For governmental plans, plans will need to be amended on or before the last day of the plan year beginning after January 1, 2024.

Your plan document provider should be assisting you with any amendments that are needed, and it will be important that those amendments, when received, are executed timely.

**Single Employer Minimum Funding Delayed**

Plans subject to minimum funding requirements, typically defined benefit plans, have received temporary relief from certain required contributions. This relief includes:

- Minimum funding contributions for qualified plans, including quarterly contributions delayed until January 1, 2021.
- The amount of each such minimum required contribution shall be increased by interest accruing for the period between the original due date and the payment date at the effective rate of interest for the plan for the plan year in which the payment is made.
- Note that these provisions apply only to minimum required contributions as defined by Internal Revenue Code 430(a). It does not provide additional time to make other contributions that may be required.
- Additionally, the CARES Act contains relief which allows sponsors to carry forward the previous (year ending before January 1, 2020) adjusted funding target attainment percentage (AFTAP) calculations through calendar year 2020 for the purposes of determining funding-based benefit restrictions.

CAPTRUST will continue to monitor both the Internal Revenue Service and the Department of Labor as they offer further guidance to plan sponsors on using and applying this relief.

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