Customized Retirement Plans

The CARES Act & Your Employer Sponsored Retirement Plan March 31, 2020

We hope this message finds you, your family, and your company healthy and well as we navigate these uncertain times together. The COVID-19 emergency is presenting new and unique challenges that most of us are facing for the first time. This has raised important questions around retirement plan administration, including the nature of the relief that may be available for plan participants. In response, on March 27, 2020, the **Coronavirus Aid, Relief, and Economic Security (CARES) Act (H.R. 748)** was signed into law and became effective immediately.

The CARES Act provides plan participants increased access to their retirement funds due to financial hardship and challenges caused by the COVID-19 crisis. Most of the provisions highlighted below are <u>optional</u>. Should you elect to change your plan to incorporate these changes, a formal plan amendment is required by the last day of the plan year beginning on or after January 1, 2022. Employers need to balance the participants' needs to access their retirement accounts against the concern that leakage from their accounts may leave them ill prepared for retirement.

CORONAVIRUS-RELATED DISTRIBUTIONS

"Qualified individuals" may withdraw up to $100,000 (aggregated across all plans of the employer or controlled group) from January 1, 2020 - December 31, 2020.

These distributions:

- Are exempt from the 10% early distribution penalty tax that would normally apply before age 59 1/2;
- Are not subject to the mandatory 20% tax withholding; 10% withholding will apply unless the participant elects out of withholding;
- Can be repaid/indirectly rolled into an IRA or employer plan within 3 years from the date the distribution was taken; and,
- Are ratably included in individual gross taxable income over 3 tax years unless it is repaid or unless the participant elects to include all amounts in a single tax year.

The definition of a "Qualified Individual" is:

1. An individual diagnosed with Coronavirus Disease 2019 ("COVID-19") by a test approved by the Centers for Disease Control and Prevention;
2. Individuals whose spouse or dependent is so diagnosed; or,
3. Individuals who experience adverse financial consequences as a result of being quarantined, furloughed, laid off, having work hours reduced due to COVID-19, being unable to work due to lack of child care due to COVID-19, closing or reducing hours of a business owned or operated by the individual due to COVID-19, or other factors as may be determined by the Secretary of the Treasury.

Employers will be permitted to rely on an employee's certification that they satisfy the above conditions in determining whether a distribution is coronavirus-related.

PLAN LOAN CHANGES

Plans that offer (or wish to offer) loans are permitted to:

- Increase the maximum available loan taken within 180 days of the enactment of the CARES Act to the lesser of $100,000 or 100% of a participant's vested balance;
- Extend the due date of a loan by one year if that loan is due on or before December 31, 2020 (but additional interest will accrue);
- Disregard the 5-year maximum loan duration period, if payments are delayed; and
- Suspend loan repayments due on outstanding loans that are in good order for a period of up to 12 months if requested by the participant. This relief expires on December 31, 2020. The suspension period is to be added to the original loan term.

WAIVER OF 2020 REQUIRED MINIMUM DISTRIBUTIONS FOR DEFINED CONTRIBUTION 401(a) PLANS, 403(b) PLANS, GOVERNMENTAL 457(b) PLANS, & IRAs

- Required Minimum Distributions (RMDs) may be waived in 2020, including those who had not yet received their first distribution if they turned 70 1/2 in 2019.
- A plan beneficiary receiving distributions over a 5-year or 10-year period will be able to waive the distribution for 2020.

DEFINED BENEFIT FUNDING RELIEF

- All single-employer minimum required contribution funding obligations due during 2020 can be delayed until January 1, 2021. Note that the amount of the later payment would include interest accrued from the later due date until the new payment date.
- A plan sponsor may elect to treat the plan's 2019 adjusted funding target attainment percentage (AFTAP) as the 2020 AFTAP (with interest applying to late contributions).

You can also communicate to your employees that they can modify or stop their 401(k)/Roth 401(k) contributions. This will allow them to increase their pay now and to commence 401(k)/Roth 401(k) deferrals later in the year when their circumstances may be different. If your Plan has administrative restrictions on a participant's ability to make changes, such as changes permitted quarterly or semi-annually, the Employer can change or relax these procedures.

If you have any questions or choose to adopt a CARES Act provision, please reach out to your TPA Administrator by phone or email. TPA is 100% operational and we are ready to continue serving you during these extraordinary times.

Tri-State Plan Administration, Inc.
30 Garfield Place, Suite 520 | Cincinnati, OH | 45202-4368
Office: 513.651.1880 | **Fax**: 513.651.9565