The PRS Report

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CARES Act

Because of the COVID-19 virus pandemic we are in the midst of, Congress has passed and the President has signed the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) into law. The CARES Act includes some significant pension law changes. The sections below summarize some of the important new provisions as they pertain to defined contribution (401 (k), profit sharing and money purchase) and defined benefit plans. The CARES Act impacts five areas which are listed and detailed below, namely, Required Minimum Distributions (RMDs), Coronavirus-Related Distributions, Loans, Defined Benefit Plan Relief, and What can be expected.

I. **Required Minimum Distributions (RMDs)**
   a. No RMDS for 2020 are required. Of course, this includes individuals who have been receiving RMDs in the past, as well as those individuals who will have turned 72 in 2020.
   b. For those plan participants who turned 70½ in 2019 and have not yet taken their RMDs (deadline for this was April 1, 2020), no 2019 RMD has to be taken.
   c. This suspension of RMDs is applicable only to participants in Defined Contribution plans (401k and profit sharing plans), **NOT** Defined Benefit plan participants.

II. **Coronavirus-Related Distributions – can be taken from January 1, 2020 through December 31, 2020**
   a. All Coronavirus-related distributions are exempt from penalties for early distribution.
   b. As always, taxes must be paid on the distributions, but they can be paid over three years.
   c. The distributions are allowed up to $100,000 or less if account balance is lower.
   d. The Plan does not have to permit or can limit the distributions, on a non-discriminatory basis. It is entirely up to the discretion of the Plan Sponsor. Before PRS, as TPA, can prepare a Coronavirus-related distribution package, we will need a formal agreement from the Plan Sponsor to go ahead, the details of which will eventually find their way into a Plan amendment.
   e. One of the criteria below must be satisfied by the requesting participant:
      i. The participant must have a positive diagnosis of COVID-19 by a test approved by the CDC (Center for Disease Control).
      ii. A spouse or dependent of the participant must have a positive COVID-19 diagnosis.
      iii. The participant has experienced adverse financial consequences because of quarantine, being furloughed or laid off or having work hours reduced, or not being able to work due to lack of child care, closing or reducing hours of business owned or run by the participant due to such virus.
   f. Administrators or plan sponsors can rely on a participant's written certification of his or her qualification to receive a coronavirus-related distribution.
   g. These distributions may be repaid over a three-year period from the date of distribution. Such distributions, if redeposited in the Plan, will be considered rollovers into the Plan.

III. Loans – can be taken for up to 180 days past the enactment of the CARES Act (i.e, September 23, 2020)

a. Amounts up to $100,000 or 100% of the vested account balance can be taken. Outstanding loan balances reduce the new loan limits.
b. Loan repayments due to be paid between March 27, 2020 and December 31, 2020 can be delayed for up to a year. Therefore, loans would have to be re-amortized and could therefore extend up to a six-year (instead of the present five-year) period.
c. If loan repayments are extended, interest will continue to accumulate.
d. The same criteria used for the Coronavirus-related distributions applies to participants' eligibility for these loan benefits.
e. As with the Coronavirus-related distributions, it is at the Plan Sponsor's discretion whether these additional benefits are allowed.
f. As with the Coronavirus-related distributions, the participant must certify he or she satisfies the criteria to receive these added loan benefits.

IV. Relief for Defined Benefit Plans and Money Purchase Plans

a. Required contributions are delayed until January 1, 2021 (for calendar year plans).
b. If a delayed contribution is made, interest continues to accrue.
c. If the AFTAP for 2020 is below 80%, then the 2020 AFTAP can be considered to be the same as it was for the last plan year ending before 2020.

V. What can be Expected

a. In a week or so, we will be emailing out forms to you for completion regarding your authorization to permit the expanded benefits to be utilized. If you do not want to wait to receive these forms, you can email us your authorization.
b. All plans can be run according to these new law changes, but the plans must be amended for these changes by December 31, 2022.
c. We expect further law changes to be made to relieve the pension community. These may include: suspension of required 2020 contributions, suspensions of required 2019 contributions not yet made, suspension of non-discrimination and top heavy rules in the case of a suspension of contributions, and relief from certain notice requirements.

These are difficult and scary times. We, at Pension Review Services, continue to work on your behalf. Don't hesitate to contact us with any questions or requests.

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