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A CARES Act Update

The CARES Act, signed into law on March 27, 2020, contained many provisions that provided relief to retirement plans and their participants.

The IRS issued much-needed guidance to clarify some of the CARES Act's (the Act) requirements. The following is a discussion of two key provisions updated by Notice 2020-50, issued June 19, 2020: coronavirus-related distributions (CRDs) and plan loans. The Notice expanded the definition of a "qualified individual," and also addressed the taxation and recontribution of CRDs.

Coronavirus-Related Distributions

Prior to reaching age 59½, participants in defined contributions plans, such as 401(k)s, can generally only withdraw funds from their accounts due to hardship or disability. If they do succeed in meeting these conditions, they have to pay ordinary income taxes on the amount withdrawn. Further, in the case of hardship withdrawals, participants must meet strict conditions to qualify, and may be subject to a 10% early withdrawal penalty.

With the Act, the IRS expanded participant access to their 401(k) funds, even if they do not qualify for hardship withdrawals. The rules now allow participants to take CRDs under relaxed rules.

- CRDs are distributions taken:
  - By "qualified individuals",
  - Between January 1 and December 30, 2020.
- CRDs are liberally capped at $100,000 per qualified individual (including all retirement plans and IRAs).
- CRDs can be taken from a beneficiary's retirement account.
- CRDs are exempt from the 10% early withdrawal penalty.
- CRDs are exempt from the mandatory 20% tax withholding applied to distributions eligible for rollover.
- Taxes due on CRDs may be paid entirely in the year of distribution or pro rata over a three-year period (2020-2022).
- CRDs are eligible for re-contribution into the individual's retirement plan or IRA within three years of the date of the distribution and the individual may file amended tax returns to recover taxes previously paid on the CRDs.
- Plan sponsors may rely on certification by qualified individuals that they are qualified (a sample certification is included with the Notice); however, to get the 10% penalty relief from the IRS, the participant must actually meet the eligibility requirements.

Note: plan sponsors are not required to offer CRDs or the opportunity to repay them, but if they do, they must amend their plan by the last day of the first plan year beginning on or after January 1, 2022.

Plan Loans

The Act provided for, but did not require, plan sponsors to allow a one-year suspension of loan repayments by qualified individuals for loan payments due between March 27 and December 31, 2020. There's been a lot of confusion, however, as to how the one-year suspension period would be applied and when repayments should restart.

Thankfully, Notice 2020-50 provided a safe harbor for CARES Act loans, which greatly helps to clarify the requirements.

- Repayments are to resume on the first repayment date after January 1, 2021, after the suspension period ends.

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