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The CARES Act Provides Significant Relief With Respect to Distributions From Qualified Retirement Plans

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Late last night, the U.S. Senate passed by a vote of 96-0 the Coronavirus Aid, Relief and Economic Security Act (the CARES Act). In addition to, among other things, financial assistance to individuals and certain businesses, the CARES Act provides significant relief with respect to qualified retirement plans. Below is a summary of certain provisions that may impact plan sponsors.

The CARES Act will allow for "coronavirus-related distributions" during 2020 of up to $100,000 from tax-qualified defined contribution plans and IRAs, which distributions will not be subject to the 10% early distribution penalty otherwise applicable to payments made prior to age 59-1/2. Such distributions may be made only to a "qualified individual," which is defined as an individual (i) who has been diagnosed, or has a spouse or dependent who has been diagnosed, with COVID-19 or SARS-CoV-2, or (ii) who has experienced adverse financial consequences as a result of being quarantined, being furloughed, laid off or having work hours reduced, or being unable to work due to lack of childcare due to the disease. Plan administrators may rely on an employee's certification that the distribution is being made with respect to a qualified individual. An individual who receives a coronavirus-related distribution may repay it to an eligible retirement plan within three years of taking the distribution. Unless the individual elects to be taxed on the distribution in the year received, the distribution will be included in the individual's taxable income ratably over a three-year period.

In addition, the CARES Act will increase the limit on loans from qualified retirement plans taken by a qualified individual during the 180-day period beginning on the date the CARES Act is enacted. The limit during such period is the lesser of (i) $100,000 (increased from $50,000), or (ii) the greater of (A) $10,000 or (B) 100% (increased from 50%) of the present value of the qualified individual's account balance. In addition, the date for making any loan payments that are due between the date the CARES Act is enacted and December 31, 2020 is extended by one year and subsequent repayments will need to be adjusted for any interest accruing during the delay period. Adjustments to loans consistent with the Act will not cause the loan to be treated as a taxable distribution because of the five-year maximum loan term or level amortization requirements normally applicable to loans from qualified retirement plans.

The CARES Act will also allow defined contribution plans (but not defined benefit plans) to suspend making required minimum distributions with respect to 2020. This is designed to give relief to participants who have suffered losses to their accounts from the recent market downturn.

Plan sponsors will be required to amend plans to reflect these changes no later than the last day of the plan year beginning on or after January 1, 2022 (i.e., for a plan with a calendar-year plan year, by December 31, 2022) and operating such plan in accordance with the CARES Act prior to the date of amendment will be treated as being operated in accordance with its terms during such period and, except as may be provided by the Secretary of the Treasury, will not be treated as violating anti-cutback rules under the Internal Revenue Code or ERISA.

Finally, the CARES Act delays any required minimum contributions to single-employer defined benefit plans for 2020 until January 1, 2021. Such contributions will be required to be adjusted for interest from the original due date to the actual payment date.

Plan sponsors should consider contacting their third-party administrators and related plan vendors to determine how the provisions of the CARES Act will impact their tax-qualified retirement plans and what steps may need to be taken to take advantage of this relief.