Congress Passes Coronavirus Relief Package

It provides relief and flexibility for plan participants.

March 2020

KEY POINTS

- The CARES Act waives 2020 required minimum distributions for IRAs and defined contribution plans and creates a new, penalty-free withdrawal of up to $100,000 for individuals impacted by COVID-19, the disease caused by the novel coronavirus.
- Workplace retirement plans are also authorized to provide more flexibility with participant loans, including certain loan repayment relief, for impacted individuals.
- The deadline for IRA contributions and deductible plan contributions for 2019 has been extended to July 15, 2020.

On March 27, 2020, Congress passed the Coronavirus Aid, Relief and Economic Security ("CARES") Act, legislation that includes provisions affecting retirement plans and accounts.

The CARES Act includes two important provisions affecting IRAs and defined contribution plans, including qualified plans, 403(b) plans, and governmental 457(b) plans:

- A new distribution option related to the coronavirus
- Temporary waiver of required minimum distributions (RMDs)

For workplace retirement plans, the Act also provides plan loan flexibility.

New Distribution Option

The Act establishes a penalty-free withdrawal option ("coronavirus-related distributions") from workplace retirement plans and IRAs of up to $100,000 for those impacted by the coronavirus.

Impacted individuals include

- Those diagnosed with SARS-CoV-2 or COVID-19 (by a test approved by the Centers for Disease Control and Prevention), the disease caused by the novel coronavirus;
- Those whose spouse or dependents have been diagnosed with the virus or disease (by such a test); or
- Those who have experienced "adverse financial consequences" from quarantine, furlough, layoffs, reduced work hours, inability to work due to lack of childcare, or closing or reducing hours of a business owned or operated by the individual on account of the virus or disease.

(The Act confers discretion on the Secretary of the Treasury to include other factors for these distributions.)

The Act also specifies that:

- Individuals can self-certify their eligibility for the distributions.
- Coronavirus-related distributions from workplace retirement plans are not subject to 20% mandatory withholding or 402(f) notice requirements.
- Coronavirus-related distributions must be made during the 2020 calendar year.
- Coronavirus-related distributions can be recontributed, in whole or in part, to any workplace retirement plan or IRA to which an individual has a right to make rollover contributions at any time within three years of the distribution, and these recontributions will be treated as direct trustee-to-trustee transfers made within 60 days of the original distribution.
- An individual receiving a coronavirus-related distribution can include the amounts in their gross income for income tax purposes ratably over a three-year period.

Temporary Waiver of RMDs

The requirement to take RMDs from workplace retirement plans and IRAs in 2020 is waived. This applies to those whose first RMD payment would have normally been due by April 1, 2020, because they reached 70½ last year and did not receive their 2019 RMD in 2019, as well as for all 2020 RMDs.

As with the RMD waiver in 2009, during the subprime mortgage crisis, the CARES Act waiver for 2020 allows payments that would otherwise have been considered RMDs from workplace retirement plans to continue to be treated that way for withholding and notice purposes. This means that systems do not need to be changed to impose 20% mandatory withholding on payments from workplace retirement plans, or to trigger the distribution of 402(f) notices.

The year 2020 is disregarded for purposes of beneficiary distribution rules requiring distributions to occur within 5 years (for deaths occurring prior to 2020), but the temporary waiver is to be disregarded for purposes of all RMDs required to occur after 2020.

Plan Loan Flexibility

For impacted individuals (i.e., those who would be eligible for a CV distribution), the CARES Act allows workplace plans to increase the loan limit from the traditional limits.

Typically, participants can borrow the lesser of $50,000 (reduced by the highest outstanding loan balance over the past 12 months) or 50% of the vested account balance. The CARES Act allows plans to increase the loan limit to the lesser of $100,000 (reduced by the highest outstanding loan balance over the past 12 months) or 100% of the vested account balance.

Loans subject to this increased limit can be made for 180 days after enactment. Note that the CARES Act does not change any requirement for ERISA plans that the loan amount be “adequately secured” and plan sponsors may want to proceed cautiously before changing their current 50% limit.

The CARES Act also allows loan repayment flexibility for impacted individuals. If any loan repayment is due from the date of enactment through December 31, 2020, the CARES Act allows plans to postpone those repayments for up to one year. Loans can be reamortized to take into account the hiatus in loan repayments and interest that accrued during the hiatus, and the hiatus can be disregarded for purposes of the normally applicable five-year repayment deadline.

Remedial Amendment Period

Workplace retirement plans have a generous remedial amendment period. Plans need not amend until the end of the plan year beginning in 2022. (This means that calendar year plans need not amend until December 31, 2022.) Governmental plans have an additional 2 years.

Other Notable Plan-Related Relief

The CARES Act grants the Department of Labor new authority to delay deadlines required by ERISA for up to one year in the event of a public health emergency declared by the Secretary of Health and Human Services pursuant to its authority under the Public Health Service Act.

The Act also contains a funding hiatus for single-employer defined benefit plans for 2020. Funding obligations due in 2020 can be delayed as late as January 1, 2021, so long as payments are adjusted for interest. Plans taking advantage of the funding delay that fail to meet certain funding thresholds must implement benefit restrictions.

What about Hardship Distributions?

With passage of the CARES Act, some pressure is off of plan sponsors to address their ability to provide for coronavirus-related hardship distributions. But for plan sponsors that would prefer to provide hardship distributions for coronavirus relief in lieu of (or in addition to) a new distribution option specific to the virus or disease, here are some observations:

- The “seventh hardship” need. The new seventh hardship need for distributions is limited to federally declared natural disasters for which individual assistance has been deemed necessary. First, not all natural disaster declarations qualify. We believe that coronavirus-related disasters declared in New York, California, Washington, Louisiana, New Jersey, Florida, Texas, and Illinois satisfy the standard. (This is based on the fact that FEMA has authorized individual counseling assistance.) While coronavirus-related disasters have also been declared for other states, those declarations should be examined to see if they meet the criteria. Second, it is important to remember that national emergencies (which is the status for the rest of the country outside of these states as of March 29, 2020) do not satisfy the criteria.

- IRS authority. The IRS already has authority in the 401(k) hardship regulations to authorize a new safe harbor hardship need. With the passage of the CARES Act, we suspect that the IRS will be far less likely to authorize a new safe harbor.

- Safe harbor criteria. Plans with populations that are unable to satisfy the safe harbor criteria for natural disaster distributions and/or medical expense needs may want to consider a non-safe harbor hardship category. In that case, plans will need to determine who is eligible for such a distribution based on relevant facts and circumstances and what will be necessary to demonstrate eligibility for a hardship distribution. Plan administrators may look to the eligibility criteria in the CARES Act as a helpful guideline on both points.

Are IRA Contribution and Retirement Plan Deadlines Delayed?

The Internal Revenue Service announced (in Notice 2020-18) an extension to July 15, 2020, of the time for filing income tax returns and paying 2019 income taxes and 2020 estimated income taxes. On March 23, 2020, the IRS clarified in FAQs that the extension applied to the deadline for contributing to an IRA for 2019, as well as the deadline for making deductible contributions to a plan for 2019.

There have been no other formal announcements of extensions to contribution deadlines. Importantly, the deadline for remitting salary deferrals to plans has not changed, and DOL guidance requiring prompt remittance of these deferrals to a plan remains in effect.

The IRS has authority under Code Section 7508A to extend for up to one year a number of deadlines applicable to retirement plans in the event of a natural disaster impacting individuals and companies. The IRS has issued a revenue procedure [Revenue Procedure 2018-58] that clarifies the deadlines that can be extended under this authority, including deadlines for rollovers, returns of excess, amendments, Form 5500 filing and EPCRS self-correction. The procedure is not self-implementing and must be triggered by a press release or other announcement from the IRS.

As of March 29, 2020, no such announcement had been made. As a result, until further notice, there is no extension of any IRA or retirement plan deadline, other than those covered under the CARES Act and the IRS notice providing for an extension of the tax payment and filing deadline (as interpreted by FAQs).

Next steps for plan sponsors

We understand that many plan sponsors will be interested in offering some relief for employees through workplace retirement plans and are prepared to assist clients adopting CARES Act provisions. For requirements and best practices relating to the implementation of provisions, please contact your T. Rowe Price representative.

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