Insights for fiduciaries

Fiduciary Flash

The Coronavirus Aid, Relief, and Economic Security Act—a summary of key provisions impacting retirement plans

Congress has passed, and the President has signed into law, the Coronavirus Aid, Relief, and Economic Security Act (the "CARES Act"), which is intended to provide direct healthcare aid and economic relief in response to the COVID-19 pandemic. The Act provides over $2 trillion of relief in the form of public health aid and tax relief for individuals and businesses.

The stimulus package includes measures that ease restrictions for retirement plan withdrawals and loans by giving retirement plan savers affected by the pandemic access to funds and resources to assist them in managing economic difficulties the pandemic may present.

Below is a summary of the high-level rules relating to retirement accounts.

Retirement plan distributions

- The Act allows for "coronavirus-related" distributions from defined contribution retirement plans, such as 401(k) plans, IRAs, and 403(b) plans, of up to $100,000 with the early 10% withdrawal penalty suspended (for distributions made prior to the age of 59½).
- Regular income taxes due on the distribution will be spread over three years unless the person taking the distribution elects otherwise.
- A distribution can be repaid within three years of the date of distribution to any plan or IRA to which a rollover contribution can be made. Repayments will be treated as rollover contributions.
- Coronavirus-related distributions can be made to individuals who have been diagnosed with COVID-19, a spouse or dependent of such an individual, or those who experience adverse financial consequences as a result of the pandemic. An employer can rely on an employee's certification that these conditions are satisfied.
- Plans that don't currently allow for in-service withdrawals may be amended to allow for in-service withdrawals of coronavirus-related distributions. Offering in-service withdrawals is an optional plan provision.

Loans

- The maximum loan amount for qualified loans is increased from $50,000, or 50% of the vested account balance to $100,000, or 100% of the vested balance.
- Loan repayments due between the date of CARES enactment and year-end 2020 can be delayed for up to one year without penalty. This would extend the total repayment period.
- These changes are optional.

Required minimum distributions

- The Act suspends Required Minimum Distributions (RMDs) in the year 2020 for various retirement plans, including IRAs, 401(k), 403(a) and 403(b) plans, and 457(b) plans. Therefore, the 50% penalty associated with not taking an RMD is suspended in 2020.
- The RMD suspension covers first RMDs from 2019, which individuals may have deferred until April 1 of this year. Similarly, RMDs are waived for plan participants who turned 70½ in 2019 (prior to the enactment of the SECURE Act) and are required to take an RMD prior to April 1 of this year.
- Individuals who have already taken an RMD in 2020 have the option of returning it, if certain conditions are met.

Other stimulus measures impacting individuals

Stimulus checks

The Act provides for a single "recovery rebate" payment of $1,200 to individuals with 2019 adjusted gross incomes below $75,000 and $2,400 to couples who are married and file jointly with 2019 adjusted gross incomes below $150,000. An additional $500 rebate for each child will be provided as well. The rebates will be phased out for individuals with 2019 adjusted gross incomes between $75,000 and $99,000 (and between $150,000 and $198,000 for married couples filing jointly). For those without 2019 incomes, the Treasury will look to an individual's 2019 Form SSA-1099, *Social Security Bene it Statement*.

Since the payments are in the form of rebates, they will not be includible in 2020 gross income.

Taxpayers may look to line 8(b) of their Forms 1040 from 2019 (or their 2018 Forms 1040 if they have not yet prepared their 2019 returns) to determine their adjusted gross income. No minimum income is necessary to receive the rebates.

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Charitable contributions
The Act allows an above-the-line charitable contribution deduction of up to $300 for taxpayers who do not itemize deductions on their 2020 tax returns.

For individuals who do itemize, cash contributions to public charities may be fully deducted (up to 100% of adjusted gross income) without regard to the usual percentage limitation. Contributions in excess of the taxpayer's adjusted gross income may be carried forward for five years.

The limitation for deductions of food inventory is increased from 15% to 25% for 2020.

Student loans
The Act allows employers to pay employees up to $5,250 for student loan payments and excludes such payments from the employee's gross income for 2020.

Payments due on federally held student loans are suspended without interest until September 30, 2020, and involuntary collections, including wage garnishments, are similarly suspended.

Unemployment benefits
The Act creates a temporary pandemic unemployment assistance program to provide payments to certain individuals who are unemployed, experience reduced work hours or are unable to work as a result of COVID-19.

The program increases the amount of unemployment insurance compensation benefits an individual may receive by an additional $600 per week through the end of July 2020. Unemployment compensation benefits provided under state law are extended by an additional 13 weeks.

The unemployment benefits cover those not typically covered by such benefits, including self-employed individuals, independent contractors and those who have otherwise exhausted their benefits.

Stimulus measures impacting businesses

Small business loans
The Act expands the eligibility for businesses with fewer than 500 employees, including certain self-employed individuals, sole proprietors and independent contractors, to borrow up to 2.5 times their average monthly payroll costs for the trailing 12 months, capped at $10 million, without the need for collateral or personal guarantees.

Loans may be used for payroll, medical or sick leave, family leave, group health care benefits, mortgage payments, rent, utilities and other debts.

Payroll costs exclude compensation for employees whose annual salary exceeds $100,000.

Certain covered loans may be eligible for forgiveness for proceeds used to meet payroll, with forgiveness amounts reduced if there is a reduction in either the number of employees or compensation for certain lower-paid employees during the covered period. Forgiveness of loans will not give rise to cancellation of indebtedness income.

Employee retention credit
Eligible employers are provided a refundable payroll tax credit against applicable employment taxes of up to $5,000.

Eligible employers are those forced to at least partially suspend operations or those who experience a significant decline in gross receipts as a result of COVID-19.

Deferral of Social Security taxes
Employers may defer their portion of the 6.2% employer share of Social Security taxes through 2020, with the deferred amount payable over the following two years.

The employer share of the Medicare tax may not be similarly deferred.

Miscellaneous provisions
Net Operating Losses (NOLs) arising in tax years 2018, 2019 or 2020 may be carried back to each of the five years preceding the taxable year of the loss. Corporate NOLs could be used to fully reduce taxable income, thus eliminating the current 80% limitation under current law.

REITs are excepted and not allowed to carry back the losses.

The Act retroactively suspends the limitations on excess business losses in excess of $250,000 for single filers and $500,000 for married couples filing jointly.

The limitation on business interest expense deductions is increased from 30% to 50% for tax years 2019 and 2020, though taxpayers may elect out of the increase.

Corporations may claim their outstanding AMT credits immediately rather than over a period of years.

Corporations will be allowed to deduct up to 25% (rather than the usual 10%) of their charitable contributions for tax year 2020.

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