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In the News-SPECIAL EDITION--March 2020

Historic Stimulus Bill Passes Senate: The Coronavirus, Aid, Relief, and Economic Security (CARES) Act

The CARES Act was passed by the Senate on March 25, 2020 by a vote of 96-0 and was enacted on March 27, 2020.

Components of this historic act contain retirement-based provisions, aimed at easing hardship and loan rules to free up funds for individuals impacted by the pandemic and to provide relief from the required minimum distribution (RMD) rules. The final bill also adds funding relief for single employer defined benefit plans.

Below are the key provisions affecting retirement plans.

Hardship Distributions: The CARES Act waives the 10% early withdrawal penalty tax under Internal Revenue Code Section 72(t) on early withdrawals up to $100,000 from a retirement plan or IRA for an individual:

- who is diagnosed with COVID-19;
- whose spouse or dependent is diagnosed with COVID-19;
- who experiences adverse financial consequences as a result of being quarantined, furloughed, laid off, having work hours reduced, being unable to work due to lack of child care due to COVID-19, closing or reducing hours of a business owned or operated by the individual due to COVID-19; or
- other factors as determined by the Treasury Secretary.

The legislation also permits those individuals to pay tax on the income from the distribution ratably over a three-year period and allows individuals to repay that amount into the plan over the next three years. Those repayments would not be subject to the retirement plan contribution limits and the distribution is not subject to the 20% withholding.

Plan Loans: Increases the current retirement plan loan limits to the lesser of $100,000 or 100% of the participant's vested account balance in the plan. Individuals with an outstanding loan from their plan with a repayment due from the date of enactment of the CARES Act through Dec. 31, 2020, can delay their loan repayment(s) for up to one year.

Plan Amendments: The legislation further permits retirement plans to adopt these rules immediately, even if the plan does not currently allow for hardship distributions or loans, provided the plan is amended on or before the last day of the first plan year beginning on or after Jan. 1, 2022, or later if prescribed by the Treasury Secretary.

Temporary Waiver of Required Minimum Distribution Rules: Waives RMDs for calendar year 2020 for DC plans, including 401(k), 403(b), 457(b) and IRA plans, allowing individuals to keep funds in their retirement plans. Under current law, individuals generally at age 72 must take an RMD from their DC plans and IRAs.

Single-employer DB Plan Funding Rules: New to the bill is a provision to provide single-employer defined benefit plan funding relief by giving companies more time to meet their funding obligations by delaying the due date for any contribution otherwise due during 2020 until Jan. 1, 2021. At that time, contributions due earlier would be due with interest. The provision also provides that a plan's status for benefit restrictions as of Dec. 31, 2019 will apply throughout 2020, such that a plan sponsor may elect to treat the plan's adjusted funding target attainment percentage for the last plan year ending before Jan. 1, 2020, as the adjusted funding target attainment percentage for plan years which include calendar year 2020.

Expansion of DOL Authority to Postpone Certain Deadlines: The legislation provides the Department of Labor with expanded authority to postpone certain deadlines under ERISA. In general, the legislation increases the circumstances to go beyond a terroristic or military action to also include a public health emergency declared by the Secretary of Health and Human Services under the Public Health Service Act.

HB Retirement Commentary: *Details of this legislation are still being reviewed and analyzed. Swift action was taken by the U.S. Government to ensure retirement plan participants will have access to their retirement plan assets to aid in meeting financial obligations surrounding the coronavirus. This legislation will cause recordkeeping partners and third party administrators to diligently work on system and document updates that will allow for these provisions to be applied to your plan. We will be staying on top of which provisions of the legislation are voluntary versus mandatory and the impact this legislation will have on your retirement plan(s). HB Retirement will monitor these developments to help you make any necessary decisions.*

Source: National Association of Plan Advisor (NAPA)