Bolton
Insight

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CARES Act Provides DB and DC Funding Relief

The Coronavirus Aid, Relief, and Economic Security (CARES) Act was signed into law Friday, March 27th. CARES is the third phase of more than $2 trillion in economic stimulus legislation and includes several provisions relating to employee benefit plans.

Defined Benefit Relief

Due to low interest rates and the economic turmoil of the Coronavirus pandemic, plan sponsors are facing large contribution requirements in a market when revenues are severely depressed. For single employer plans with cash flow limitations, the CARES Act offers the following forms of short-term relief:

- Minimum Required Contributions, including quarterly contribution installments, with an original due date during the 2020 calendar year will have their due dates delayed until January 1, 2021. At January 1, 2021, any accumulated unpaid contributions will be increased for interest for delayed payment at the plan's effective interest rate for the applicable plan year, effectively eliminating the 5% interest penalty.
- Section 436 benefit restrictions, for the 2020 plan year may be based on the AFTAP certification for 2019 plan year. This is intended to allow sponsors to continue benefit accruals as well as offer accelerated payment (most commonly lump sum) options. The provision is contingent on an election by the plan sponsor and is not mandatory.
- Certain Cooperative and Small-Employer Charity (CSEC) pension plans now include employers who conduct medical research directly or indirectly through grant making and whose primary exempt purpose is to provide services with respect to mothers and children.

Defined Contribution Relief

Due to the financial impact of the Coronavirus pandemic, the CARES Act allows participants to access their defined contribution plan savings and avoid penalties that would otherwise be imposed. Qualifying individuals are eligible for the following:

- Coronavirus-related distributions (CRDs) up to $100,000 can be withdrawn from an eligible retirement plan on or after January 1, 2020 and before December 31, 2020 and would be exempt from the 10% early withdrawal penalty that is typically applied for withdrawals prior to age 59½. Participants receiving CRDs may repay the distributions spread over three years and be treated as rollover contributions. CRDs are to be included in taxable income to the extent that they are not repaid over the three year period. The $100,000 limit is an aggregate limit for all plans maintained by the same employer. CRDs are only available to qualifying individuals as described below.
- The loan limit will be doubled from $50,000 (or 50% of the vested benefit) to $100,000 (or 100% of the vested benefit) for 180 days after the effective date of the Act.
- Loan repayments are suspended for all new or existing plan loans due in the calendar year 2020, with any applicable interest accruing, for one year. The one-year delay will not impact the five-year maximum repayment period.

Qualifying individuals are participants who are diagnosed with COVID-19, have a spouse or dependent diagnosed with COVID-19, or experience financial consequences such as being quarantined, furloughed, laid off, working reduced hours, being unable to work due to lack of child care, or closing or reducing hours of a personal business.

The CARES Act also provides participants the option to waive all required minimum distributions (RMDs) due in 2020 from qualified DC plans. This waiver includes initial distributions for participants who attained age 70½ in 2019 and are due a first payment in 2020. Any RMD payments that are received during 2020 (after the effective date of the Act) are eligible for rollover treatment; thus, receiving a distribution during this period is subject to 20% withholding. The CARES Act does not interact with the delay of the RMD age requirement from the SECURE Act.

Plan amendments that are made to conform with these new rules need to be made by the last day of the plan year beginning on or after January 1, 2022. Some plan recordkeepers have been reaching out to plan sponsors to solicit elections on some of these voluntary provisions, and plan sponsors may have to make some quick decisions to implement these changes well in advance of the amendment deadline.

DOL Authority to Delay Deadlines

In addition to the rules and features of the CARES Act that are listed above, the Act also allows for the expansion of Department of Labor (DOL) authority to postpone certain compliance deadlines in the event of a public health emergency. A public health emergency was declared by the Department of Health and Human Services on January 31, 2020. We are still awaiting details with regards to these extensions, notably a desire to delay distribution of Annual Funding Notices and to delay submission of Form 5500s.

Please contact Christy Yeager at 667-218-6929 or Jim Ritchie at 443-573-3924 to better understand how this legislation might impact your organization.