

Key Takeaways from the CARES Act

The coronavirus (COVID-19) emergency has placed the United States in a challenging and unique position that many of us have never experienced before. Many employers are facing closures of offices and businesses resulting in layoffs or furloughs, or work from home situations. In response, the Coronavirus Aid, Relief and Economic Security Act (CARES Act) was signed into law on March 27, 2020.

Below is a description of the key CARES Act provisions:

Coronavirus-Related Distributions

Plans may permit in-service coronavirus-related distributions from a participant's vested account balance without regard to the normal withdrawal restrictions. This relief is offered through December 31, 2020.

These distributions are subject to the following requirements:

- Limited to \$100,000 per tax year, aggregated across all plans of the employer or controlled group.
- Not subject to 20% mandatory tax withholding upon distribution.
- Exempt from 10% early withdrawal penalty generally applicable to distributions made to participants who are 59-1/2 or younger.
- Eligible to be indirectly rolled into an IRA or employer plan within 3 years from the date the distribution is taken.
- Amounts not indirectly rolled into an IRA or employer plan are included in gross taxable income, pro rata, over 3 tax years, unless the participant elects to include all amounts in a single tax year.

Coronavirus-related distributions are available to "eligible" participants who:

- Are diagnosed with a coronavirus (COVID-19 or SARS-CoV-2) illness.
- Have a spouse or dependent diagnosed with a coronavirus illness.
- Experience "adverse financial consequences" as a result of a quarantine, furlough, lay-off, reduction in work hours, business closure, the lack of childcare, or other factors determined by the IRS due to the coronavirus emergency.

A plan administrator may rely on a participant's certification of the above.

Coronavirus-Related Loan Relief

Two types of loan relief were also provided:

1. Plans may allow eligible participants, as defined above, to take loans up to the lesser of \$100,000 or 100% of the participant's vested account balance for the specified period.
2. Upon the request of an eligible participant, plan sponsors must suspend loan repayments due on outstanding loans that are in good order for a period of up to 12 months. This relief expires on December 31, 2020. The suspension period is to be added to the original loan term when repayments, including accrued interest, resume, regardless of the length of the loan's original term.

Waiver of 2020 Required Minimum Distributions (RMDs)

A Distribution from an "Eligible Retirement Plan," (an IRA, 401(a) plan (including 401(k) and defined benefit), 403(b), and governmental 457(b)) will not be required to make any RMD payments for 2020. Specifically:

- Participants who turned age 70½ prior to 2019 will not be required to receive an ongoing RMD for 2020.
- Participants who turned age 70½ in 2019 and who did not receive their first RMD for 2019 on or before January 1, 2020 will not have to receive their first (2019) RMD or their 2020 RMD.
- Beneficiaries receiving life expectancy payments will not be required to receive their 2020 beneficiary RMD.
- Beneficiaries who have an account balance in the plan subject to the five-year distribution rule may extend their required distribution by one year (full distribution of the account must be made by the 6th anniversary of the participant's death).

If a 2020 RMD is provided to any of the above, it may be rolled over to an IRA or employer plan. A participant's RMD or beneficiary's life expectancy RMD for 2021 will need to be paid.

Defined Benefit Plan Relief

Delay in 2020 funding obligations. Under the CARES Act, all single-employer funding obligations due during 2020 are not required to be made until January 1, 2021, with interest for late payments.

Benefit restrictions. Under the CARES Act, a plan sponsor may elect to apply the plan's funded status for the 2019 plan year in determining the application of benefit restrictions for plan years which include calendar year 2020.

Timing of Plan Amendments

The CARES Act includes a remedial amendment period giving plan sponsors additional time to amend their plans for this relief. Sponsors of non-governmental plans have until the last day of the plan year beginning in 2022 to amend their plans, i.e., December 31, 2022 for a calendar year plan. Sponsors of governmental plans have until the last day of the plan year beginning in 2024 to amend their plans.

Administrative Items on which regulatory guidance is needed

Relief from the spousal consent requirements. To date, neither the IRS nor the DOL have provided any guidance that might relieve plans from their notarized spousal consent requirements; however, the industry has provided commentary to the regulatory agencies that relief in this regard is needed.

Unforeseeable Emergency. Another area in which we are awaiting guidance from the IRS is whether a coronavirus-related financial need may be included as part of a nonqualified plan's unforeseeable emergency distributions. Based on current guidance, a coronavirus-related distribution would not be included within this withdrawal right.

We will provide further updates as they become available. If you have any questions, please contact us at 530-891-4975 or email Tom Hicks (TomHicks@nhhicks.com), Debbie Rath (drath@nhhicks.com) or your administrator found at NHHICKS.com