

# HICKS NOTES

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## THE YEAR AHEAD, WHAT CAN WE EXPECT?

As we enter 2021, there is continued uncertainty on our country and business life. What will the new Democratic regime have in store for us? What are the tax and economic priorities now that we have a new Democratic administration? Can we expect any major legislation in the retirement plan area or is it business as usual? Finally, what will happen with COVID-19 and how will lockdowns and future actions affect small businesses? While nobody KNOWS with certainty the answers to these questions, this month's newsletter will outline what we do know.

There is a new round of Paycheck Protection Program (PPP) loans available to small businesses, rather than larger ones, including corporations that have access to capital markets. Certain retirement plan provisions of the CARES Act have been extended under the Consolidated Appropriations Act (CAA), while others have not. The loan and distribution rules have not been extended and ended on December 31, 2020. For information on the CARES Act provisions, click [here](#).

There is relief in the partial plan termination rules within the CAA. Generally, a plan sponsor, who terminates 20% or more of its active participants in one plan year, is required to fully vest these terminated participants when distributing their benefits. Under the relief, plan sponsor will avoid the partial plan termination determined on the plan year basis, if the active participant count of March 31, 2021 is at least 80% of the active participant count on March 13, 2020. Make sure your TPA is checking your plan for this issue.

The SECURE Act continues to be law and will dominate decision making this year for our small businesses. The fact that companies can now start qualified plans after the year end will give small business owners a chance to install new plans as late as their tax filing deadline plus extensions. However, do not wait until the deadline as plan documents must be prepared and signed, and an account must be opened to deposit the contributions.

Many real estate agents and other professionals had a great year in 2020, but are concerned about funding a defined benefit plan for the 2021 plan year. We are recommending that these clients to go on extension and see how 2021 goes before deciding how much they can fund for 20 and 21 in the. In addition, Profit Sharing plans can be installed with a 401(k) feature for 2021 after December 31, 2020. For more on these dates, click [here](#).

The SECURE ACT introduced the Pooled Employer Plans (PEPS) option to the Multiple Employer Plans (MEPS) already available. These plans are basically a bundled plan with set provisions that will tout low-cost alternatives to regular 401(k) plans. While they may prove to be appropriate in some cases, I believe they will allow unscrupulous providers into the marketplace. We have seen this problem with many payroll providers charging too much and delivering too little. What the providers lack is expertise and bringing value in individually designed plans with tiered benefit allocations, safe harbors, and other age/service weighted solutions. A warning to all working with small business clients, do your homework before recommending this "simple low cost" alternative.

Further, the stock market's rise and fall is playing havoc with Defined Benefit plans and their funding issues. Huge gains ending on December 31, 2020 are causing plans to become overfunded or are greatly reducing funding for 2020. A plan's gains may be wiped out should events cause the market to drop precipitously. An employer may be greatly affected by COVID-19 and not be making the income to fund the plan. The solution to this issue is to be proactive and act before the consequences are worse. Good communication with these clients, advisors and pension administrators is a must to flush out these issues and deal with them.

In conclusion, we are living in interesting times, but life and business does go on. Be proactive, work with professionals, stay abreast of new developments, adapt, and change to an evolving environment. Plan sponsors should remember that, pandemic or not, they have compliance standards and concerns to meet. Small business is a joy and together, we can help our clients succeed in this ever changing world.