**Summary of CARES Act provisions relating to retirement plans**

Congress passed the Coronavirus Aid, Relief, and Economic Security Act (CARES Act, Public Law 116-136) in response to the economic downturn caused by the coronavirus pandemic. The Act includes several items designed to ease employees' access to their retirement funds and certain provisions allowing employers to delay contributions to their pension plans. The Act was effective March 27, 2020.

The retirement provisions of the CARES Act are temporary. Those that most directly affect employees are early withdrawal and plan loan provisions that apply to 401(k), 403(b) and governmental 457(b) retirement savings plans. Most employers with these retirement savings plans will probably take advantage of the temporary changes to their plans that are permitted by the Act. However, employers are not required to adopt the changes. You may want to contact your employer or plan administrator to learn how the Act may impact your retirement plan.

**<u>CARES Act temporary changes to retirement savings plan rules</u>**

*The following temporary adjustments to retirement savings plan rules only apply to persons directly affected by the COVID-19 virus, who have been laid off or otherwise lost employment income, who are sick or have family members who are sick due to the virus.*

- *Tax relief for early withdrawals from retirement savings plans*, 401(k)s, 403(b)s, 457(b) governmental plans and IRAs, apply to workers with COVID-19 related loss of income or illness of the worker or close family members.

    - Ordinarily, if you take money out of your retirement savings plan to use for a "hardship" before age 59 ½ you would have to pay a ten percent penalty tax (as well as income tax) on the amount you withdraw. The penalty or "excise" tax for early withdrawals will not apply during 2020 for COVID-19 related distributions that are less than $100,000. The $100,000 limit applies to combined distributions from more than one plan and/or IRAs. Money withdrawn can be repaid over a three-year period. Partial repayments are permitted. Any amount repaid within three years will not be subject to income tax. If the money is not repaid it will be taxable, but the tax amount will be spread over a three-year period.

The tax relief for early withdrawals also applies to COVID-19 distributions taken before other permitted events, such as termination of employment or disability, provided that the distribution is one permitted by the plan.

- *Modifications to plan loan limits and due dates* apply to workers with COVID-19 related loss of income or illness of the worker or close family member.

    - The plan rules must permit workers to take loans from their retirement savings accounts. The maximum amount of a loan is increased to $100,000 or the entire vested account balance for loans taken within 180 days after March 27, 2020 (between March 27 and September 23, 2020). Loan payment due dates are extended for one year for payments that are due between March 27 and December 31, 2020. This applies to payments due for new or existing loans. However, interest will continue to accrue on the unpaid loan amount.

    - These modifications to the rules for plan loans do not apply to workers with IRAs.

**<u>CARES Act temporary changes to pension plan rules</u>**

- The funding rules for single employer defined benefit pension plans are relaxed. The due date for employer contributions to plans is extended until January 1, 2021.

**CARES Act temporary changes for Required Minimum Distributions (RMDs)**

- Required minimum distribtuions (RMDs) for 401(k), 403(b), 457(b) governmental plans and IRAs are waived for 2020. However, individuals who want a RMD may still request one.

  The waiver applies to all individuals who would be required to take a minimum distribution from a retirement savings plan in 2020. (RMDs do not apply to Roth accounts or IRAs.) Individuals age 72 and over are required to take minimum withdrawals from their traditional IRAs and their retirement savings plans each year. The waiver also applies to individuals who turned 70 and ½ in 2019 and had not paid a RMD before January 1, 2020.

  Individuals who have already received a RMD for the year 2020 may be able to roll the RMD amount into an IRA or another retirement plan if they can meet the IRS rules for rollovers. Generally, to avoid taxes a rollover must be accomplished within 60 days from the distribution date. The IRS has relaxed the rollover timeline for the COVID-19 emergency. IRS Notice 2020-23 extends the permissible 60-day rollover period until July 15, 2020 for disributions taken between February 1, 2020 and May 15, 2020.

**Labor Department Notice related to the COVID-19 emergency**

- The U.S. Department of Labor issued Disaster Relief Notice 2020-01 that allows both pension and retirement savings plans to delay providing certain notices and to provide them electronically in certain circumstances. The Notice also allows employers to delay forwarding contributions to 401(k) plans, and temporarily suspends the deadlines for employees and retirees to file claims for retirement benefits and appeals of denials of benefits.

  - The Notice extends the deadlines for employers to furnish notices that are due between March 1, 2020 and 60 days following the announced end of the COVID-19 National Emergency provided the plan fiduciary provides the notice as soon as administratively practicable. Additionally, employers and plan administrators may use alternative means to furnish notices, such as electronic communications, provided that the plan fiduciary has reasonably determined that the recipients of any electronic communications have the ability to effectively access notices delivered electronically. Plan fiduciaries must make a diligent effort to comply with disclosure requirements and to correct any deficiencies as soon as possible.

    - The Notice states that the Labor Department will not take an enforcement action for delay in forwarding employee contributions to a retirement savings plan when the delay is related to COVID-19. Employers and service providers must act reasonably and in the interests of employees to comply as soon as possible.

- Deadlines to file claims and appeal denials of claims during the period between March 1, 2020 and 60 days after the announced end of the National Emergency will be disregarded. Deadlines for claims processing will be relaxed, although plan fiduciaries should minimize any loss of benefits or undue delay in benefit payments.

- Advance notice will not be required for a "blackout period" (a period of more than three business days when the rights of participants in 401(k) plans to change investments, take out a loan or other distribution) may be restricted or limited, if the inability to provide advance notice is due to the COVID-19 pandemic.

For more information:

- **EBSA Disaster Relief Notice 2020-21**
- **IRS: Coronavirus-related relief for retirement plans and IRAs questions and answers**
- **Federal Register: Extenstion of Certain Timeframes for Employee Benefit Plans, Participants, and Beneficiaries Affected by the COVID-19 Outbreak**