

Retirement Plan Provisions of CARES Act

Prepared by Wagner Law Group

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The third COVID-19 stimulus package has provisions regarding retirement plans, including expanded and penalty-free withdrawal rights, expanded loan rights, extended rights to repay loans and withdrawals, and a deferral of mandatory distributions.

Coronavirus-Related Distributions

The 10% early distribution penalty from retirement plans and IRAs under Section 72(t) of the Internal Revenue Code (the “Code”) will not apply to “coronavirus-related distributions” up to \$100,000 per person from the person’s retirement plan accounts. The amount distributed may be re-contributed to the retirement plan, or to another plan, within three years after the date the distribution is received, without regard to any plan limit on contributions. If the individual does not re-contribute the distribution within that time period, taxation on the distribution may be spread over a 3-year period. Federal income tax withholding is not required on a coronavirus-related distribution, and a direct rollover need not be offered.

A coronavirus-related distribution may be taken at any time in calendar year 2020, by an individual (i) who is diagnosed with COVID-19 by a CDC-approved test, (ii) whose spouse or dependent is diagnosed with COVID-19 by a CDC-approved test, (iii) who “experiences adverse financial consequences as a result of being quarantined, being furloughed or laid off, or having work hours reduced due to” COVID-19, (iv) who is unable to work due to COVID-19 child care issues, (v) who has closed or reduced hours in a business owned or operated by the individual, due to COVID-19, or (vi) who has experienced other factors as determined by the Secretary of the Treasury. The administrator of the plan may rely on the individual’s certification that the individual qualifies for a coronavirus-related distribution under these categories.

Loans from Qualified Plans

The \$50,000 loan limit, for loans from qualified plans to “qualified individuals” made during the 180-day period from the date of enactment, is increased to \$100,000, and the cap of 50% of the present value of the vested benefit is increased to 100% of such present value.



The due date for any repayment by a “qualified individual” of a participant loan that would occur from the date of enactment through December 31, 2020, is delayed for up to one year. Later repayments for such loan are also adjusted “appropriately” to reflect the prior delayed due date “and any interest accruing during such delay.” The delay period is ignored in determining the 5-year maximum period for such loan.

A “qualified individual” who could be eligible for these expanded loan limits and loan delays is one who could meet the same coronavirus-related tests as discussed above for coronavirus-related distributions.

Plan Amendments

A plan may be amended to provide for these expanded distribution and loan options. Plan amendments for both the coronavirus-related distribution and plan loan provisions need not be made until at least the last day of the first plan year beginning on or after January 1, 2022. The due date for amendments to governmental plans is two years later than such date.

Minimum Required Distributions

Minimum distributions otherwise required in 2020 from defined contribution plans need not be made. Minimum distributions with required beginning dates in calendar year 2020, which have not yet been made by January 1, 2020, and which are required from defined contribution plans, need not be made in 2020. This waiver is applicable to (i) defined contribution 401(a) qualified plans, (ii) defined contribution 403(a) and 403(b) plans, (iii) governmental defined contribution 457(b) plans, and (iv) individual retirement accounts. If this provision is treated in the same manner as the analogous 2009 relief, a plan sponsor may have discretion as to whether it should be adopted.

Plan amendments for these provisions are not required until the last day of the first plan year beginning on or after January 1, 2022 (January 1, 2024 for governmental plans).

Defined Benefit Plan Funding Requirements

Single employer defined benefit plan funding requirements for 2020, including quarterly contributions, may be deferred until January 1, 2021, at which time they must be paid with interest. In determining the application of benefit restrictions in plan years containing the 2020 calendar year, a plan sponsor may elect to apply the plan’s 2019 funded status.

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