Retirement Daily

Saving/Investing for Retirement

Retirement Plan Provisions of the CARES Act

By Retirement Daily Guest Contributor | Apr 6, 2020 9:39 AM EDT

By Mary Vandenack

The CARES Act includes provisions that allow individuals to use their retirement funds as a resource during the coronavirus pandemic without the usual penalties. In addition, the act includes provisions that allow deferral of minimum distributions to avoid being required to withdraw funds at a time when the stock market is uncertain.

Penalty-Free Coronavirus-Related Early Distributions

The Internal Revenue Code generally imposes a 10% early withdrawal penalty on distributions from a retirement plan taken prior to a participant being at least 59½ or qualifying for another exception. The CARES Act waives the 10% penalty for "coronavirus-related" distributions. A coronavirus-related distribution is one that is made to an individual:

- Who is diagnosed with SARS-CoV-2 or COVID-19;
- Whose spouse or dependent is diagnosed with such virus;
- Who experiences adverse financial consequences as a result of being quarantined, being furloughed or laid off or having work hours reduced, being unable to work due to lack of child care, business closing or reduced hours.

A coronavirus-related distribution may be included in income over a 3-year period. In addition, a coronavirus-related distribution may be re-contributed over a 3-year period to the plan from which it was withdrawn or another qualified plan in which the individual is a participant at the time of re-contribution.

To the extent an amount is re-contributed, the distribution shall be treated as though the amount were an eligible distribution transferred to another retirement plan in a direct trustee-to-trustee transfer. Retirement plan contribution limits will not apply to re- contribution of coronavirus distributions.

Increase on Amount that Can be Borrowed from Retirement Plan Loans

Prior to passage of the CARES Act, retirement plan participant loans were limited to $50,000 or half of the participant's vested account balance. For a period commencing with the date of the passage of the Act and lasting for 180 days thereafter, the CARES Act doubles the amount that a participant can borrow to the lesser of $100,000 or 100% of the participant's vested account balance in the plan. For plan participants with outstanding loans at the time the CARES Act is passed, any payments due through Dec. 31, 2020, can be deferred for one year.

Plans Can Adopt Amendments Immediately

The CARES Act allows retirement plan sponsors to adopt provisions for corona-virus related distributions and plan loans based on the CARES Act immediately as long as the plan is amended by the last day of the first plan year beginning on or after Jan. 1, 2020. It is not necessary that the plan previously allowed loans or hardship distributions.

Required Minimum Distributions are Temporarily Waived

A required minimum distribution is the amount of money that must be withdrawn from the owner of a qualified retirement account when such account owner reaches retirement age. That age was 70½ for those who reached that age before Jan. 1, 2020. The SECURE Act increased the age to 72 for those who reach 70½ in 2020.

The CARES Act allows for waiver of required minimum distributions for 2020.

Relief for Defined Benefit Plans Regarding Funding

The CARES Act provides additional time for employers to fund a defined benefit plan by delaying the due date for contributions due during 2020 to Jan. 1, 2021

DOL Can Postpone Deadlines

The CARES Act provides authority to the Department of Labor to postpone various ERISA deadlines.

About the author: Mary E. Vandenack is a founding and managing member of Vandenack Weaver LLC in Omaha, Neb. Mary is a highly regarded practitioner in the areas of tax, benefits, private wealth planning, asset protection planning, executive compensation, equity fund development, business and business succession planning, tax dispute resolution, and tax-exempt entities. Mary's practice serves businesses and business owners, executives, real estate developers and investors, healthcare providers, companies in the financial industry, and tax exempt organizations. Mary is a member of the American Bar Association Real Property Trust and Estate Section where she serves as co-chair of the Futures Task Force, co-chair of the Law Practice Group and on the Planning Committee. Mary is a member of the American Bar Association Law Practice Division where she currently serves as editor-in-chief of Law Practice Magazine. Reprinted with permission from Leimberg Information Services, Inc. (LISI).