Coronavirus Aid, Relief, and Economic Securities (CARES) Act

Retirement Plan Changes

Bulletin No. 2020-April-20

OEA Education Policy, Research and Member Advocacy

The CARES Act, signed into law on March 27, 2020, allows providers of 401(k), 403(b), and 457(b) plans greater latitude in providing participants access to their retirement funds during the COVID-19 pandemic. The changes include increasing loan amounts, allowing distributions without penalty, and deferring required minimum distribution (RMD) requirements. While the plan changes are **optional**, local associations may want to advocate that school districts make the plan changes to help offset economic hardships that our members may be facing. The key components of the law are:

COVID-19 Related Distributions (CRD)

The law allows participants to take an early withdrawal, of not more than $100,000, without being subject to a 10% excise tax. A qualified CRD must be made during 2020, and must be a result of:

- The participant being diagnosed with COVID-19; or,
- A spouse or dependent being diagnosed with COVID-19; or,
- Layoff, a reduction in hours, business closure, or other loss of income due to the COVID-19 pandemic.

The participant is required to "self certify" that they meet one of the above requirements, but no proof is required other than a signed certification. At the time of the distribution, the participant will choose to classify the distribution as:

1. Not taxable to the participant so long as the participant repays the full amount within three (3) years of the distribution; or,
2. Declare the amount taxable. The participant can choose to "spread" any income tax liability over the next three (3) tax years.

Regardless of the choice, the 10% excise tax for early withdrawal, the 20% mandatory withholding tax, and the 10% voluntary withholding will be waived.

Plan Loans

Many plans offer participants the ability to borrow money from their 401(k)/403(b)/457(b) account. The CARES Act doubled the amount that participants can borrow to the lesser of $100,000 or 100% of the plan's value. This option must be exercised by September 21, 2020. To qualify for this loan provision, the participants must certify that they meet one of the qualifications outlined in the CRD section above.

The CARES Act also allows any participant with a loan in effect on or after March 27, 2020 to suspend their loan repayments for up to one (1) year if they meet any CRD requirement, as noted above. Interest will continue to accrue during the deferment and the five (5) year repayment requirement excludes the year of suspended payments. The IRS is still writing the regulations to support this provision of the law. Additional requirements and definitions (e.g. how will the one-year provision be calculated) are expected in the coming weeks.

Required Minimum Distributions (RMD)
The CARES Act also allows plans to waive the minimum distribution requirement for anyone reaching age 72 during 2020.

The plan design changes described in this bulletin have no impact on STRS/SERS/OPERS retirement plans. As of April 20, 2020, the Ohio Deferred Compensation System 457(b) has chosen not to offer these plan design changes, but many private 457(b) plans are offering COVID-19 relief options.

Questions

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