

Coronavirus Aid, Relief and Economic Security Act The CARES Act

April 1st and 2nd 2020

Presented By:

Bonnie J. Post, ERPA, QPA, QKA

Bonnie.Post@ltretire.com

Michael Vanderford, ERPA, CPC, QPA, QKA





Today's Presenters



Bonnie J. Post, ERPA, QPA, QKA, Director of Quality Assurance

Enthusiastic about building and administering the best 401(k) Plan for your business. 25+ Years in the Retirement Plan Industry. Bachelor of Science Degree, Penn State.



Michael Vanderford, ERPA, CPC, QPA, QKA, ERISA Compliance & Document Support Services

Enjoys problem solving and designing 401k plans. Director at LT Trust with 15+ years in retirement services. BSBA, University of North Carolina at Charlotte.



Today's Agenda

- Overview
- Qualifying Individuals
- Distributions – New distributable Event
- Loans
- Required Minimum Distributions
- Contribution Due Dates
- Funding of Employee Contributions
- Funding of Employer Contributions
- Suspending Safe Harbor Contributions and Impact
- Terminating a 401k Plan and Impact
- What's Next for Plan Sponsors?
- More Relief to come?



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

- Signed by President Trump on Friday, March 27, 2020
- Largest economic bill in US History
- Relief for those suffering as a result of the Coronavirus pandemic
- Bill addresses several issues, our focus will be on how it impacts your retirement Plan



Who Can Take Advantage of the Relief in the CARES Act?

Qualified Individual

- The participant has been diagnosed with the virus (as confirmed by a CDC-approved test)
- The participant's spouse or dependent has been diagnosed with the virus



Who Can Take Advantage of the Relief in the CARES Act

Qualified Individual

The participant has suffered financially from the pandemic because:

- The participant was laid off, furloughed, quarantined, or had hours reduced;
- The participant cannot work due to the unavailability of child care because of the pandemic; or
- The participant's own business has had to close or reduce hours.

The Plan Administrator may rely on the participant's certification that they qualify



Triggering Event: What is Severance of Employment

The determination of severance of employment is based on facts and circumstances

- No Severance if there is a reasonable expectation that the participant will return to work.
- If severance:
 - A distributable event
 - Could accelerate loan repayments
 - Could result in partial plan termination (100% vesting)
- If no severance:
 - None of above
 - Loan repayments may be suspended



“Coronavirus Related” Distributions

- New Distributable event (Not a Hardship)
- This is optional for Plan Sponsors
- Retroactive to January 1, 2020
- Maximum distributions of \$100,000:
 - No 10% premature distribution tax
 - Distribution is subject to ordinary income tax, but may be paid over a three-year period



“Coronavirus Related” Distributions

- The participant may repay all or part of the distribution to any plan that accepts rollovers within the three-year period.
- Coronavirus-related distributions are not eligible rollover distributions
 - Therefore, not subject to 20% withholding
 - Distributions are subject to 10% withholding, unless participant waives all withholding



“Coronavirus Related” Distributions

Eligible Plans:

401(a) – qualified plans

408(a)

IRAs

403(b) – annuity plan

457(b) – eligible deferred compensation plan,

403(b) – annuity contracts



“Coronavirus Related” Distributions

- May apply rules now and amend later
- Plan amendments
 - Last day of first plan year beginning on or after the Plan year beginning January 1, 2022
 - For calendar year plans by December 31, 2022



“Coronavirus Related” Loans

Expansion of Loan Availability:

- Optional for Plan Sponsors
- For loans made in the next 180 days after March 27, 2020
- Maximum Loan amount is 100% of vested account balance or \$100,000
- Increased from 50% of vested account balance or \$50,000



“Coronavirus Related” Loans

Expansion of Loan Availability:

- Delay of Payment
 - Applies to payments due from now December 31, 2020
 - May be delayed for 1 year
 - Accrues interest

- Loans that default now, should not be issued a 1099-R



“Coronavirus Related” Loans

- May apply rules now and amend later
- Plan amendments
 - Last day of first plan year beginning on or after January 1, 2022
 - For calendar year plans by December 31, 2022



Required Minimum Distributions

- Waiver of Required Minimum Distribution Requirements
- No RMD's in 2020 for DC Plans
 - Applies to DC Plans
 - 401(k) Plans
 - 403(a) Plans
 - 403(b) Plans
 - 457(b) Plans
 - 457(b) Governmental Plans
 - IRA
- Does not apply to DB Plans



Funding of Employee Contributions

- 7-day safe harbor for small plans
 - clock starts on date the funds would have otherwise been payable to employee
 - Plans with less than 100 participants are considered small
 - Large Plans must deposit contributions “as soon as administratively feasible”
 - Timing applies to both employee 401(k) deferrals AND loan repayments
- *NOTE: participants can stop 401k contributions at any time



Funding of Employer Contributions

- Required contributions must be deposited by tax return of the plan sponsor, including extensions
- Required contributions include safe harbor non-elective, safe harbor match



Funding of Employer Contributions

Safe harbor match contributions that are determined on a basis less than an annual, have until end of following quarter to fund.

- Contributions that determined for first quarter of 2020 do not need to be deposited until June 30, 2020 based on current guidance
- Could be funded later at tax deadline, if determined on annual basis
- Same would apply to non safe harbor match contributions that are required



Funding of Employer Contributions

- Discretionary contributions can be stopped at any time
- Notice should be provided to participants, not required, but best practice



Suspending Safe Harbor Contributions

In general, safe harbor contributions can be suspended with a 30-day notice to employees if one of the following conditions are met

- Employer is operating at an economic loss

OR

- Safe harbor notice provided prior to year had language indicating that contributions could be suspended mid year provided a 30-day notice was provided to participants

An amendment and participant notice is required



Suspending Safe Harbor Contributions

What happens after contributions are suspended?

- Employees may continue to defer
- Plan will be subject to ADP/ACP testing and top-heavy minimums, if applicable
- Plan can add safe harbor provisions back for 2021 plan year
- Safe harbor match must be amended before start of 2021 plan year
- Safe harbor non-elective can be amended after start of 2021 plan year



Terminating a 401(k) Plan

Plans can be terminated through corporate action such as consent of directors or resolutions.

- All plan participants with a balance, regardless of employment status, are 100% vested
- A new 401(k) plan cannot be established for at least 12 months following the final distribution from the 401(k) Plan
- Any required contributions through the date of plan termination must be funded
- The plan will be exempt from ADP/ACP testing and/or top-heavy minimum contributions if
 - Plan termination is due to acquisition or merger
 - Plan sponsor is operating at an economic loss



What is Considered an Economic Loss

For the purposes of plan termination, an economic loss is determined under rules from Internal Revenue Code 412(c)(2) Factors to consider are:

- The employer is operating at an economic loss
- There is substantial unemployment (or underemployment) in the trade or business and in the concerned industry
- Declining sales in industry



What's Next for Plan Sponsors?

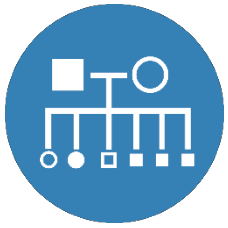
Plan sponsors must determine whether the relief provided under the CARES Act should apply to their plan

- LT will send a communication to plan sponsors to opt in and apply the relief from the CARES Act
- LT will update our system with expanded provisions upon confirmation from plan sponsor



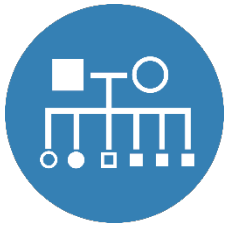
What's Next for Plan Sponsors?

- If plan does not respond, then current limits/rules will remain
- If participants contact LT to take advantage of expanded relief, but we have not received confirmation from the plan, we will direct participant to contact the plan sponsor



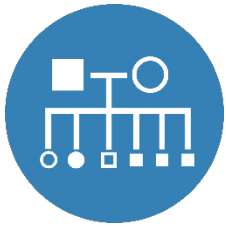
ARA Survey

- Survey of American Retirement Association Members last week
- Nearly 1/3 of small business clients would be candidates for plan termination.
- Some 200,000 small business plans at risk of termination



ARA DC Plan Funding Relief Proposal

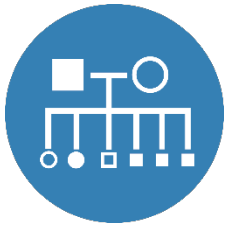
- Allow all Plan Sponsors to suspend any required ER contributions for 2020
 - Participant notice required within 60 days
- Allow Plan Sponsors with fewer than 500 participants waive any ER contribution not yet made for 2019
 - Participant notice required within 120 days
- Plan Sponsors using these options would not be subject to nondiscrimination rules or TH requirements for the year.



ARA Requested Relief from IRS and DOL

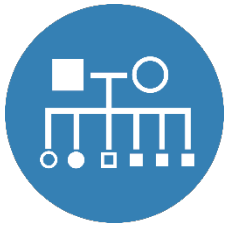
- Request on March 16, 2020
- Automatic extension to October 15 for all form 5500's due on July 31
 - Corresponding extensions to off-calendar years also
- 90-day extension for correcting failed ADP or ACP test without 10% penalty

* IRS has indicated that April 15 deadline for individuals and corporations has been extended to July 15 automatically



ARA Requested Relief from IRS and DOL

- March 24th letter to Treasury
- SH Plan may be amended to reduce or cease contributions without 30-day notice
 - Notify employees within 90 days
 - Plan amendment adopted no later than the last day of plan years
 - Change is due to a substantial business hardship; and
 - No HCE may make elective contributions the remainder of the Year.



ARA Requested Relief from IRS and DOL

- Partial Plan Terminations
 - No partial plan termination if business affected and employees are rehired by December 31, 2020, or
 - 6 months after national emergency is lifted, the number of participants is at least 80% of the participants on March 13, 2020



Please Help

- Protect more than 200,000 small business retirement plans that may be forced to terminate!
- Write your Members of congress through grassroots advocacy platform at:
 - Araadvocacy.org
- Call 202.224.3121 members of congress

Questions

Please contact your Relationship Manager if you have any additional questions.

Thank You