Retirement Plan Relief for Employees under the CARES Act – Expanded Distributions and Loans

Labor & Employment Law Update

By Kelly Haab-Tallitsch on April 7, 2020

Recent legislation providing COVID-19 relief to individuals and businesses includes provisions allowing more flexibility under retirement plans for individuals impacted by COVID-19. The CARES Act permits special hardship distributions of up to $100,000 from most tax-qualified retirement plans without early-withdrawal penalty taxes, increases the maximum 401(k) loan available for participants impacted by the pandemic and allows a delay in existing loan repayments. Required minimum distributions from defined contribution plans are waived for 2020.

Coronavirus-Related Hardship Distributions and Loans

The CARES Act allows plan sponsors to adopt special provisions expanding distributions and loans for "qualified participants." A "qualified participant" is a plan participant who: (1) is diagnosed with COVID-19, (2) has a spouse or dependent diagnosed with COVID-19, or (3) experiences adverse financial consequences as a result of being quarantined, furloughed, laid off, having work hours reduced, or being unable to work due to COVID-19.

CORONAVIRUS-RELATED DISTRIBUTIONS

A "qualified participant" may take a coronavirus-related distribution of up to $100,000 from an eligible retirement plan between January 1, 2020 and December 31, 2020. Eligible retirement plans include 401(k) and other profit sharing plans, 403(b) plans, government 457(b) plans and IRAs.

The 10% early withdrawal penalty does not apply to a coronavirus-related distribution. The distribution is taxable to the participant ratably over a three-year period, instead of all in the year of distribution. A participant can elect to repay the funds to the plan within three years and the taxable amount of the distribution will be reduced.

INCREASED 401(K) LOAN MAXIMUM

The maximum amount available for 401(k) plan loans taken between March 27, 2020 and September 23, 2020 by a “qualified participant” is doubled to the lesser of $100,000 or 100% of the participant’s vested account balance. The amount available is reduced by any other loans outstanding in the last twelve months.

Plan sponsors can choose to impose a lower loan maximum and may impose other limits that currently apply under a plan (minimum loan amounts, loans from only certain contribution sources, number of loans outstanding, etc.).

DELAY IN LOAN REPAYMENTS

Loan repayment due dates between March 27, 2020 and December 31, 2020 may be delayed for up to one year for a “qualified participant.” Any subsequent repayment due dates may be adjusted to reflect the delay. The period of delay shall not be taken into account in determining the five-year term or repayment period of the loan.

Plans may begin taking advantage of these provisions immediately and do not need to be amended until the last day of the plan year beginning on or after January 1, 2022.

Required Minimum Distributions NOT Required in 2020

Required Minimum Distributions (RMDs) from defined contribution plans (including 401(k), 403(b) and government 457(b) plans) and IRAs are waived for 2020 under the CARES Act. RMDs that would otherwise been required to be made for those participants reaching age 72 during 2020 may be delayed until 2021. The delay does not apply to RMDs under defined benefit plans. Plans must be amended to reflect the waiver by the last day of the plan year beginning on or after January 1, 2022.