Coronavirus Aid, Relief and Economic Security (CARES) Act

Summary of Retirement Plan Provisions (Signed into law on 3/27/2020)

The 3rd COVID-19 stimulus package involves provisions regarding retirement plans. These include:

- expanded and penalty-free withdrawal rights,
- expanded loan rights,
- extended rights to repay loans and withdrawals, and
- a deferral of mandatory distributions.

COVID -19 Related Distributions

The 10% early distribution penalty will not apply to COVID-19 related distributions up to $100,000 per Individual taken from all plans and IRA's combined. The amount distributed may be re-contributed to the retirement plan or to another plan within 3 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 COVID-19 related distribution, and a direct rollover need not be offered.

With their release of Notice 2020-50 and Notice 2020-51, the IRS provided much needed guidance to plan sponsors/administrators regarding certain CARES Act provisions enacted March 27, 2020. Notice 2020-50 included anticipated guidance on the tax treatment of a Coronavirus Related Distribution (CRD), but the big news was the expansion of the definition of who qualified for enhanced access to distributions and loans from retirement plans under the CARES Act. Originally, a Qualified Individual was defined as an individual:

- who is diagnosed with the virus SARS-CoV-2 or with coronavirus disease 2019 (referred to collectively in this notice as COVID-19) by a test approved by the Centers for Disease Control and Prevention;

• whose spouse or dependent is diagnosed with COVID-19 by a test approved by the Centers for Disease Control and Prevention; or

• 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, being unable to work due to lack of childcare due to COVID-19, closing or reducing hours of a business owned or operated by the individual due to COVID-19.

The Notice expands the definition of Qualified Individual to include an individual who experiences adverse financial consequences as a result of:

• the individual having a reduction in pay (or self-employment income) due to COVID-19 or having a job offer rescinded or start date for a job delayed due to COVID-19;

• the individual's spouse or a member of the individual's household (as defined below) being quarantined, being furloughed or laid off, or having work hours reduced due to COVID-19, being unable to work due to lack of childcare due to COVID-19, having a reduction in pay (or self-employment income) due to COVID-19, or having a job offer rescinded or start date for a job delayed due to COVID-19; or

• closing or reducing hours of a business owned or operated by the individual's spouse or a member of the individual's household due to COVID-19.

The administrator of the plan may rely on the individual's certification that the individual qualifies for a COVID-19 related distribution under these categories.

Loans from Qualified Plans

The maximum loan amount would be increased from $50,000 or 50% of the vested account balance to $100,000 or 100% of the vested account balance. This increase applies to plan loans for a period of 180 days after the date of enactment.

For any repayment on a loan due between enactment and December 31, 2020, the due date for such payment is delayed for one year. The loan can predate enactment, but the repayment date must be between enactment and the end of 2020. Any subsequent repayments must be adjusted to reflect the delay and interest accrued during the 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 COVID-19 related tests as discussed above for COVID-19 related distributions.

Required Minimum Distributions (RMDs)

RMDs otherwise required in 2020 from defined contribution plans need not be made. RMDs 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:

- defined contribution 401(a) qualified plans,
- defined contribution 403(a) and 403(b) plans,
- governmental defined contribution 457(b) plans, and
- IRAs

Notice 2020-51 extends the amount of time a person who already took a 2020 Required Minimum Distribution (RMD) has to roll funds back to a retirement account following the CARES Act RMD waiver for 2020. Note, since the 2020 RMD requirement has been waived, NAI will not be reaching out to participants who would have been required to take a 2020 RMD if not for the waiver.

Plan Amendments

A plan may be amended to provide for these expanded distribution and loan options. Plan amendments for both the COVID-19 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.