ROTHSCHILD INVESTMENT CORPORATION

The CARES Act's Impact on Retirement Plans

—If You Have Any Questions—
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With virtually every part of the U.S. economy facing unexpected financial challenges from the coronavirus (COVID-19) pandemic, Congress has passed the largest relief package in U.S. history. Signed into law on March 27, 2020, the Coronavirus Aid, Relief, and Economic Security (CARES) Act is designed to assist the millions of Americans affected by the outbreak. The legislation has multiple provisions that affect retirement and health savings arrangements.

Retirement Savings Provisions:

Most financial experts advise against using assets that have been set aside for retirement. But many individuals may have to do just that in order to supplement their income. The following provisions are intended to help individuals access their IRA and retirement plan assets and to replenish those assets later on.

- **New coronavirus-related distributions (CRDs)**. Individuals younger than 59.5 may withdraw up to $100,000 in aggregate from eligible retirement plans without paying the 10 percent early distribution penalty tax. This distribution is still subject to income tax, see below.
  - A CRD is defined as a distribution made on or after January 1, 2020, and before December 31, 2020, to a qualified individual, defined as
    - an individual (or the spouse or dependent of the individual) who is diagnosed with the COVID-19 disease or the SARS-CoV-2 virus in an approved test; or
    - an individual who experiences adverse financial consequences as a result of being quarantined, being furloughed or laid off or having work hours reduced due to such virus or disease, being unable to work due to lack of child care due to such virus or disease, closing or reduced hours of a business owned or operated by the individual due to such virus or disease, or other factors as determined by the Treasury Secretary.

    The CARES Act clarifies that employers may rely on participants' certification that they meet the CRD requirements.
  - An eligible retirement plan is defined as a qualified retirement plan (e.g., a 401(k) plan), 403(b) plan, governmental 457(b) plan, or an IRA.
  - CRDs will meet the retirement plan distribution requirements, as long as all distributions from one employer do not exceed $100,000.
  - Individuals may repay CRDs over three years beginning with the day following the day a CRD is made. Repayments may be made to an eligible retirement plan or IRA.
  - CRD repayments made within the three-year period will be treated as having satisfied the general 60-day rollover requirement.

- CRDs will be taxed ratably over a three-year period, unless an individual elects otherwise.
- Although CRDs may be rolled over, they are not considered “eligible rollover distributions” for certain purposes. Employers are not required to offer a direct rollover option. Employers are also not required to withhold 20 percent on a CRD or provide a 402(f) notice, which explains the tax and rollover options required by IRC Sec. 402(f).

- **Waiver of RMDs in—or for—2020**: Financial markets have taken a hit in the wake of the coronavirus outbreak. To help savers retain more in their retirement accounts, the CARES Act waives the required minimum distribution (RMD) in 2020 for plan participants, IRA owners, and beneficiaries.
    - RMDs normally required to be taken for 2020 are waived.
    - This waiver also applies to individuals who turned 70½ in 2019 but who did not take their first RMD before January 1, 2020. In the absence of additional relief, the next RMD for those individuals must be taken by December 31, 2021.
    - For purposes of counting the five-year period for beneficiary distributions, 2020 is disregarded and one year is added to the remaining period. For example, for deaths occurring in 2019, the five-year period in which the inherited assets must be distributed will end on December 31, 2025, instead of on December 31, 2024.
    - A distribution that is taken in 2020—but that is not an RMD because of the waiver—may be rolled over to another eligible retirement plan or to an IRA within 60 days of the distribution. Though such distributions may be rolled over, they are similar to CRDs in that they are not treated by employer plans as eligible rollover distributions for purposes of the 20 percent mandatory withholding, the 402(f) notice, or the direct rollover requirements.
- **Increased maximum plan loan amount**. The retirement plan loan maximum for a qualified Individual (defined as meeting the COVID-19 or SARs-CoV-2 conditions described previously) is increased to the lesser of $100,000 or 100 percent of the participant’s vested balance. This increased amount applies to loans made during the 180-day period beginning on March 27, 2020.
- **Delayed plan loan repayment date**. Retirement plan loan repayment dates that occur between March 27, 2020, and December 31, 2020, can be delayed for one year, with the amortization period—including the five-year repayment deadline—adjusted accordingly.
- **Funding relief for defined benefit plans**. For single-employer defined-benefit pension plans, the minimum required contributions due during 2020 can be delayed to January 1, 2021 (adjusted for interim earnings). Employers also have an option to use an alternative funding target percentage.
- **Expanded DOL authority to postpone certain deadlines**. In addition to taking action in response to a disaster or terroristic threat, the DOL may now postpone certain deadlines under ERISA if a public health emergency (like the COVID-19 pandemic) occurs.
- **Amendment guidance**. Plan sponsors generally must amend their retirement plans for these provisions by the last day of the 2022 plan year (government plans have an additional two

years), or such other date as the Treasury Secretary may prescribe, with operational compliance during the interim period.

Health-Related Provisions:

- **Allowable Services**. Health insurance plans can pay for telehealth and remote care services without first requiring an individual to satisfy a deductible. Such payments will be deemed not to violate existing HSA requirements. This relief applies to plan years that begin on or before December 31, 2021, and promotes diagnosis and treatment while helping individuals avoid possibly risky in-person contact.
- **New qualified medical expenses**. Certain medicines or products do not need to be a "prescription" to be qualified medical expenses for HSA, HRA, MSA, and health FSA purposes. The CARES Act specifically includes over-the-counter menstrual care products.

Although the CARES Act represents the largest relief package in U.S. history, there may be more to come. Government officials have stated that more relief will be available if needed. For now, the CARES Act should help many Americans get some of the financial relief that they desperately need.

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