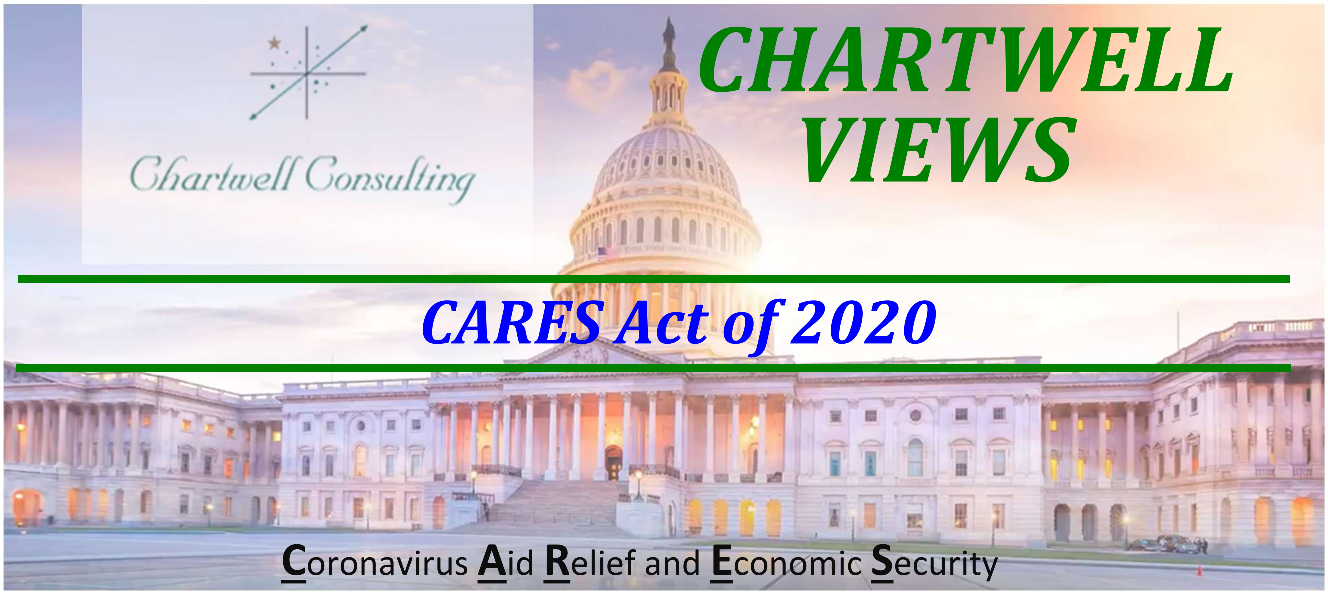

Background:

The Coronavirus Aid, Relief, and Economic Security (CARES) Act is a $2 trillion dollar bipartisan relief package signed into law by President Trump on March 27, 2020 in response to the public health crisis and associated economic fallout in the wake of COVID-19. The legislation includes provisions to help ease the economic impact of the coronavirus pandemic on individuals and small businesses.

Highlights of ***the retirement plan*** provisions of the CARES Act are as follows:

1. **Required Minimum Distributions (RMDs)**- all required minimum distributions (RMDs) have been waived for 2020. This applies to both Roth and Traditional retirement accounts. This allows people to avoid withdrawing assets when the market is down, assuming they can afford to do so.
2. **Qualified Coronavirus-Related Retirement Account Distributions (CRDs)**- this provision allows for limited early withdrawals from a qualified retirement plan if eligible. A person is eligible if they, their spouse, or a dependent is diagnosed with COVID-19 by a test approved by the CDC, or if they have experienced adverse financial consequences as a result of being quarantined, furloughed, laid off, or have reduced working hours due to the virus. The CRD is taxable, but the 10% early withdrawal penalty and the 20% mandatory withholding fee are waived. Unless the individual elects otherwise, the tax on a CRD can be paid off over the course of 3-years. An individual can avoid taxation if they replace the distribution amount within 3-years.
3. **Loans From Retirement Plans**- If a person meets the eligibility criteria stated above, they can take out a loan during a 180-day period in amounts up to the greater of $100,000 and 100% of vested account balance. This is an increase from the usual $50,000. Loans must be re-paid, although the Act does allow for an additional one-year time period to make loan payments if a loan is due for repayment between enactment and December 31, 2020. Any amounts not repaid according to the plan rules will be considered a taxable distribution with possible penalties.
4. The Act includes provisions related to **Defined Benefit plans and Health Savings Accounts.**

5. **Defers Student Loan Payments**- federally owned student loan payments may be deferred for six months through September 30, 2020.

The CRD and enhanced loan provisions are **optional for plans to enact**. Sponsors may choose to allow these provisions, or they may elect do nothing (in which case, depending on plan wording, they will likely not be allowed). It's also important to remember that not all plans offer regular hardship withdrawals and loans, meaning those plan sponsors that do not offer these features will need to consider if they will add them and/or CRD distributions and loans.

Other notable provisions of the CARES Act include:

1. **Direct Cash Rebates**- the Federal government will be sending a one-time "advanced refundable tax credit" to qualifying individuals with valid social security numbers. The amount is limited to $1,200 for individuals, $2,400 for couples filing jointly, and an additional $500 for every child under the age of 17. Individuals with adjusted gross income less than $75,000, or $150,000 for couples, will receive the full credit amount. Individuals with no children and income in excess of $99,000, or $198,000 for couples, will not receive a credit. Income ranges in-between will receive a partial credit.
2. **Expansion of Unemployment Benefits**- the Act includes a $600 per week increase in unemployment benefits for up to four months through July 31, 2020. This also expands benefits to individuals that are not usually eligible, such as the self-employed and independent contractors. The goal of this provision is to replace as much income as possible due to the virus's impact.
3. **Relief for Small Businesses**- $349 billion will be allocated to small businesses with less than 500 employees to assist in covering expenses and payroll until June 30, 2020. This only pertains to companies who do not lay off any employees between February 15, 2020 through June 30, 2020. Amounts are limited to $10 million dollars, and any amount used to cover payroll, mortgage interest, rent, utilities, and health insurance will be forgiven.
4. **Freeze on mortgages and foreclosures**- borrowers with a federally-backed mortgage loan may request forbearance, or a pause, in their payments without penalties, fees, or interest due to financial hardships caused by the virus.
5. **Charitable Giving**- the Act creates a new, above-the-line deduction, up to $300, for any cash donations to qualifying charitable organizations. This deduction is not available for those who itemized deductions.

Considerations for Plan Sponsors:

A key consideration is whether current plan loan and distribution options are sufficient, or whether the new distribution and loan options would be beneficial to their participants. Employers will likely make the decision based on the needs of their specific employee population. For example, businesses that have been heavily impacted by COVID-19, such as the travel industry, airlines, small businesses and others, will likely have employees that may have a higher need, or interest in taking a distribution or loan from their plan. As such the employer will need to decide to offer the existing loan provision in their plan or the new Loan provisions or both.

Plan sponsors will also need to work with their record keepers and payroll providers to address administrative issues, particularly in the case of loans. For example, plan sponsors that contemplate offering loans and delayed loan repayments for individuals meeting Eligibility Criteria must track these loans separately and, as applicable make payroll adjustments.

Considerations for Plan Participants and Individuals with IRAs:

The CARES Act provides a number of benefits for those that have been impacted by COVID-19, demonstrating Congress is taking action to help Americans and businesses with economic relief in several forms. With lost wages, significant health care costs and other unexpected expenses, people may have no choice but to tap retirement savings to address the financial challenges that they are facing.

Before acting on any of the provisions, employers and individuals should give careful consideration prior to taking advantage of these provisions, and at what levels. Individuals should first utilize their emergency savings accounts before tapping long-term retirement savings, if available.

Individuals that participate in an employer plan or have an IRA should also utilize resources offered by their employer's workplace plan, record keeper or IRA custodian, calculate their immediate needs, and consider the tax implications of withdrawing from their retirement account and which option is best for them to replenish their Retirement Account when their financial situation improves.

If an individual determines that there is a need to remove savings from their retirement account, he or she will first need to determine their existing plan distribution and loan options and, if elected by the plan sponsor, available CRDs and increased maximum loan options. Individuals will then need to decide on which option(s) to utilize. There are important differences and considerations in determining what options will best meet an individual's needs:

In the case of a CRD distribution:

- First, does the individual meet the eligibility criteria for a CRD Distribution?
- There is no 20% mandatory tax withholding at the time of distribution (although the distribution is still taxable).
- There is no 10% excise tax imposed for early distributions.
- An individual has three years to spread out tax payments on the CRD.
- The individual needs to set aside assets or have a plan to pay taxes on the distribution amount over the course of 3-years.
- The individual should establish a plan to replenish their retirement savings over time.
- The individual can replace the distribution amount within three years to avoid taxation.

In comparison to a distribution, a loan may be a more optimal option:

- There is no mandatory withholding or taxes on the loan amount unless the loan gets defaulted.
- Loan repayments and interest will go back into the individual's plan account, which is a systematic way to replenish retirement savings over time vs relying on self-discipline to do so.
- For plan participants that take out a loan, they will have to start to repay the loan in 2021. It will be important for the participant to consider income and other resources that they will have a year from now that they will need to repay the loan when determining whether to take the loan and how much to withdraw.

Under either scenario, participants will need to come up with funds in the future, either to repay the loan or to pay taxes on the distribution. Again, in making all of these considerations, the right planning tools and self-discipline will be important.

Additionally, assuming the plan allows for it, participants may want to consider taking only half of what they think they will need as they can always consider taking another distribution later in the year if they find it necessary.

Considerations for Defined Benefit Plans:

For defined benefit and money purchase pension plans, the law includes a delay in contribution deadlines. Specifically, **any contribution due in calendar year 2020 (including quarterly contributions) now has a delayed due date of January 1, 2021.** Note that the employer must pay interest on delayed contributions, from the original due date to payment date, using the effective rate of interest for the plan for the plan year that includes the payment date.

Considerations for Health Savings Accounts and Student Loan Reimbursement:

HSAs: All telehealth and other remote care services can be covered pre-deductible without violating federal rules for high deductible health plans paired with an HSA (this is only permitted for plan years that begin on or before 12/31/2021). Additionally, for expenses incurred after December 31, 2019, the CARES Act eliminates the rule that limits the use of HSAs to prescribed medicines or drugs.

Student Loans: The CARES Act also provides new considerations when it comes to student loan reimbursement. Under this provision, employers are **now able to reimburse a "qualified education loan."** This provision expires on Dec. 31, 2020 so employers will have to decide if they want to offer this for the remainder of 2020. Since the benefit would need to meet the other requirements of educational assistance programs, employers will need to consider how and if making such an offer would align with other financial wellness resources that they already offer to help employees address student debt.

Next Steps:

The CRD and enhanced loan provisions are optional for plans to enact. Plan sponsors should assess the impact of the CARES Act provisions on their plan and specific situation. Your plan actuaries, administrators/recordkeepers and consultants stand ready to assist you with this assessment and any necessary implementation.

Sources: National Association of Plan Advisors (NAPA), Voya, Prudential Pension Analyst, Manning & Napier.