THE CARES ACT

Update for Plan Sponsors

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THE TRUST COMPANY of TENNESSEE

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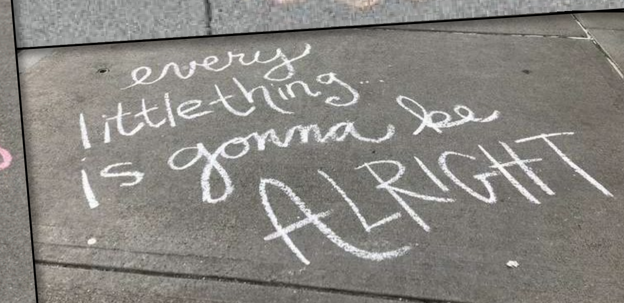
Kindness
is
CONTAGIOUS
too

SOCIAL
DISTANCE
DOESN'T MEAN
WE AREN'T
TOGETHER

Before
something
great happens
everything
falls apart

every
little thing
is gonna be
ALRIGHT

AGENDA

Today's presentation will cover the following topics:

- **Overview of the CARES Act**
    - Hardship Distributions
    - Plan Loans
    - Required Minimum Distributions
    - Defined Benefit Plans Minimum Funding
    - Guidance

- **Options for Plan Sponsors**
    - Employee Deferrals
    - Employer Contributions
    - Loans
    - Assistance for Businesses

OVERVIEW OF THE CARES ACT

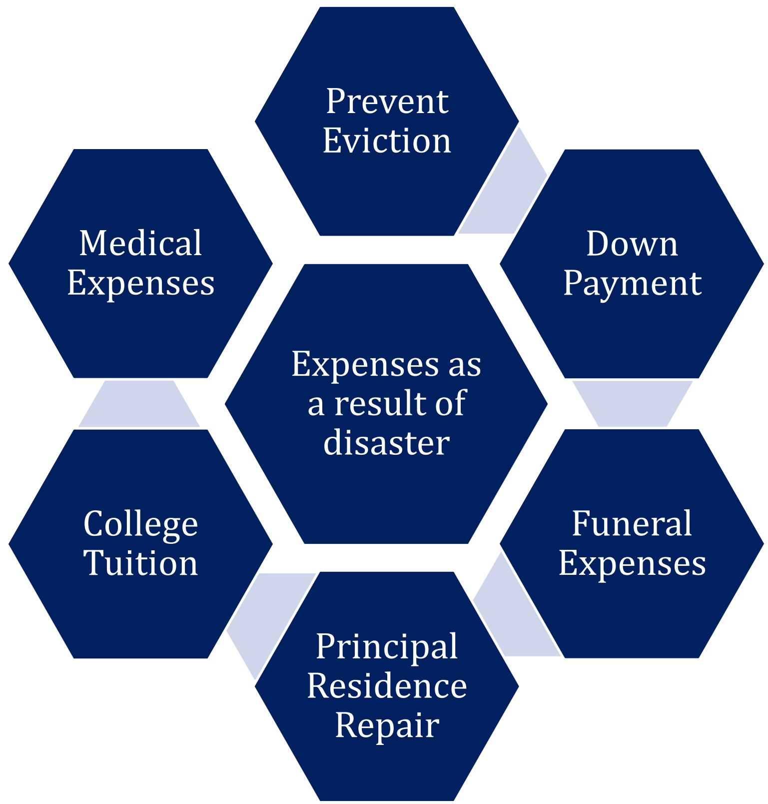
The Coronavirus, Aid, Relief and Economic Security (CARES) Act was signed into law by President Trump on Friday, March 27, 2020. It is an attempt at the federal level to address issues brought on by the COVID-19 pandemic.

- The CARES Act seeks to provide economic support to the business sector, employees, individuals, and families.
- It specifically addresses industries that have been impacted the most, including air transportation, healthcare, and education.
- **The reason for our webinar is to help explain how the CARES Act will affect Retirement plans.**

HARDSHIP DISTRIBUTIONS

Before the CARES Act

Hardship distributions are normally only available for the following expenses:



These hardship withdrawals are taxable and if a participant is under age 59 ½, they will be assessed an additional 10% early withdrawal penalty by the IRS.

HARDSHIP DISTRIBUTIONS

After the CARES Act

The 10% early withdrawal penalty is waived on hardship distributions up to $100,000 from a retirement plan or IRA if:

Diagnosed with COVID-19

- The participant, their spouse, or dependent is diagnosed with Coronavirus.

Adverse Financial Consequences

- The participant experiences adverse financial consequences as a result of being quarantined including:
  - Furloughed
  - Laid off
  - Reduced work hours
  - Unable to work due to lack of child care due to COVID-19
  - The closing or reducing of hours of a business owned or operated by the individual due to COVID-19

Other factors subject to changes by the Treasury

This distribution must occur from a tax-qualified retirement plan on or after January 1, 2020 and before December 31, 2020.

HARDSHIP ADMINISTRATION

After the CARES Act

For this purpose, the plan administrator may rely on an employee certification. This alleviates significant liability and administration that would otherwise be required.

Participants taking these distributions may repay them, or contribute them as a "trust-to-trust" transfer to another plan within three years of the distribution. These repayments would not be subject to the retirement plan contribution limits.

If not repaid, the normal income tax that will be due on these hardship withdrawals can be made ratably over a 3-year period.

PLAN LOANS

Before the CARES Act

Under normal circumstances, the maximum amount of a loan is the lesser amount of:

1. $50,000 minus the highest outstanding balance of loans in the past 12 months, or
2. 50% of the present value of the participant’s vested account balance.

Lesser of:

$50,000

Or

50%

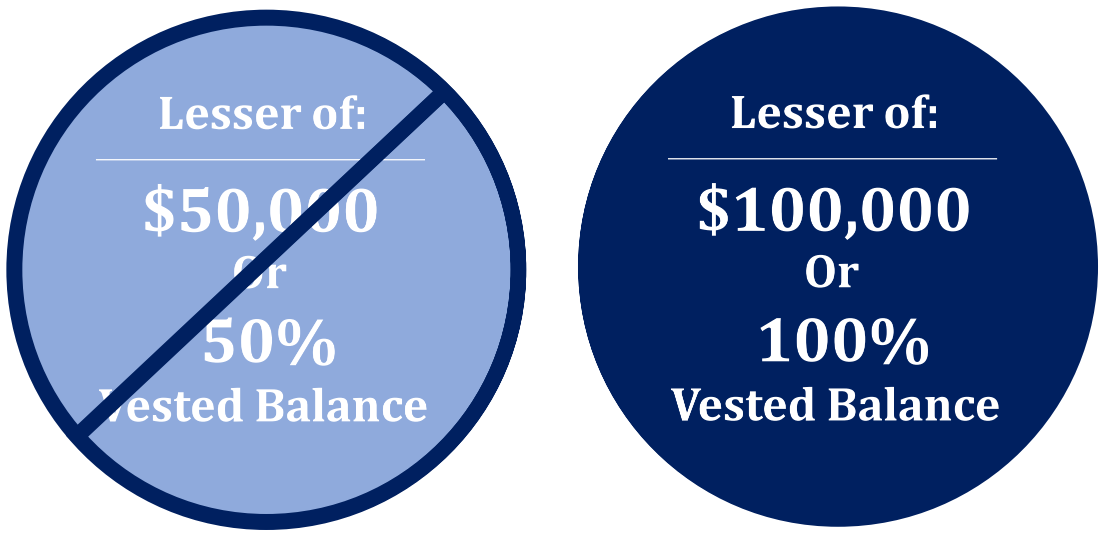
Vested Balance

PLAN LOANS

After the CARES Act

For 180 days from the date of enactment of the CARES Act, a participant as previously described under the Hardship Rules, can request a loan for the lesser amount of:

1. $100,000 minus the highest outstanding balance of loans in the past 12 months, or
2. 100% of the present value of the participant's vested account balance.



The due dates for repayment of these loans is also delayed for one year.

REQUIRED MINIMUM DISTRIBUTIONS

After the CARES Act

The CARES Act waives RMDs for calendar year 2020 for all defined contribution plans, including 401(k), 403(b), 457(b) and IRAs.

This includes 2019 RMD distributions due by April 1, 2020 for those who had not yet received their first distribution if they turned 70 ½ in 2019.

ADOPTION

Plans may adopt these new benefits immediately, even if the plan does not currently allow for hardship distributions or loans, provided the plan is amended on or before the last day of the plan year beginning on or after Jan. 1, 2022

2022 JANUARY

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

DEFINED BENEFIT MINIMUM FUNDING

Any ERISA-required contributions to a defined benefit plan that are due during 2020, including quarterly contributions, are delayed to January 1, 2021, at which time the amount due will be increased for interest.

GUIDANCE

We are still waiting for guidance on the following items:

- Automatic extensions for the Form 5500
- An extension to the deadline for correcting a failed ADP or ACP test
- An extension to the deadline for distributing excess contributions under a plan
- An extension for funding employer contributions to defined contribution plans

OPTIONS FOR PLAN SPONSORS

Employee Deferrals

With your workforce and working circumstances changing daily, it is very important to remember that the current crisis does not reduce the fiduciary obligations of plan sponsors.

- Any employee deferral contributions need to be timely remitted to the plan. Failure to do so could result in excise taxes, penalties, and other additional costs to the employer.
- Please remember that any leave of absence pay resulting from layoffs or furloughs is considered plan compensation for the purposes of employee deferrals and employer match (if applicable). Don't confuse this with Severance Pay.

OPTIONS FOR PLAN SPONSORS

Employer Contributions

Non-Safe Harbor plans (that specify a matching or profit-sharing formula):

- Can be amended to reduce or remove these employer contributions going forward.
- Participants are still entitled to any contributions they have earned prior to the effective date of the amendment.

Non-Safe Harbor plans (that include discretionary matching or profit-sharing):

- Employer contributions will not need to be amended.
- Although a notice is not required, for your organizational health, we recommend letting your employees know what is happening and why.

Safe Harbor Plans

- Can be stopped if the following steps are taken:
  1. Document must be amended to remove the safe harbor provision
  2. 30-day notice must be provided to participants explaining that the safe harbor employer contributions are being stopped
  3. The employer is still responsible for the safe harbor contribution earned up to the effective date of the amendment
  4. Since the plan will no longer be a safe harbor plan, it will be subject to ADP, ACP, and top heavy testing at the end of the plan year.

OPTIONS FOR PLAN SPONSORS

Loans for furloughed employees

Current laws permit the suspension of plan loan repayments for up to one year. When the furloughed employee is rehired, the loan can then be re-amortized over the original length of the loan.

Remember – a furloughed employee is not a terminated employee; therefore, they do not have a distributable event. The only access they will have to their funds will be through a loan or hardship withdrawal.

ASSISTANCE FOR BUSINESSES

Paycheck Protection Program (PPP)

- $350B in SBA loans will be made available to help keep workers employed and business afloat
- Must have 500 employees or less
- SBA 7(a) loans up to $10M or 250% of employer's average monthly payroll costs
- SBA Express loans up to $1M
- Can be used for employee salaries, mortgage payments, rent, utilities, and other debt that was incurred before the covered period.
- **If employers maintain payroll, the portion of the loan that was used for up to 8 weeks of payroll costs, mortgage interest, rent and utilities would be forgiven.**
- Forgiveness amounts are reduced for decreases in monthly average headcount and salary/wage reductions.
- The remaining loan balance will have a maturity of not more than 10 years.
- The program is retroactive to February 15, 2020, allowing companies to bring back workers who have been laid off and pay them for the time missed.
- Should be available in late April or early May – SBA needs time to get the details and applications online.

QUESTIONS?

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Live
CONFIDENTLY.

Companies are frustrated by the time they spend dealing with 401(k) complexities. We remove the hassle so they can focus on what they do best.