The CARES Act is Enacted into Law:

The coronavirus (COVID-19) emergency is presenting unique challenges for employers across the country and their employees. Employers are facing closures of offices and businesses, resulting in employees being laid off/furloughed to staff learning to work in a remote environment. In response to the challenges we are all facing, the Coronavirus Aid, Relief and Economic Security Act (CARES Act) was signed into law on March 27,2020.

Below is brief description of the key provisions:

Coronavirus-Related Distributions

Effective immediately, plans may permit an in-service coronavirus distribution. This distribution will not be subject to any normal withdrawal restrictions (ie. age 59 ½) and will be available through the end of 2020.

The distribution is subject to the following requirements:

- Limited to the lesser of 100% of the vested account balance or $100,000, aggregated across all plans of the employer or their affiliates
- Not subject to the 20% mandatory tax withholding (participants may elect income tax withholding)
- Exempt from the 10% early withdrawal penalty generally applicable to those under age 59 ½.
- Eligible to be indirectly rolled into an IRA or employer plan within 3 years of the date the distribution was made.

- Amounts not indirectly rolled into an IRA or employer plan are included in taxable income and may be taxed over a 3 year period (beginning with the tax year of the distribution).

Coronavirus distributions are available to "eligible" participants who self-certify one of the following:

- Have been or had a spouse or dependent diagnosed with coronavirus (COVID-19 or SARS-CoV-2).
- Experienced "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 reducing hours of a business owned or operated by the individual due to such virus or disease, or other factors as determined by the Secretary of the Treasury (or the Secretary's delegate).

Plan administrators can rely on a participant's self-certification.

<u>Coronavirus-Related Loan Relief:</u>

There are two types of participant loan relief being offered. They are:

1. Plans may allow participants to take loans up to the lesser of 100% of their vested account balance or $100,000. This is only available up to 180 days after enactment, which was March 27,2020.
2. Upon the request of a participant, plan sponsors must suspend loan payments due on outstanding loans for up to 1 year. (applies to payments due from March 27, 2020 through December 31, 2020. Interest will continue to accrue through the suspension period. Upon expiration of the suspension, participants will have the option to make a balloon payment to catch up the missed loan payments and accrued interest or the loan can be re-amortized over the remainder of the original loan term plus the extension period.
3. Qualifying individuals is the same definition as those eligible for the coronavirus distribution.
4. Each of these components are optional.

<u>Hardship Withdrawals:</u>

If your plan allows hardship withdrawals, participants will be allowed a hardship withdrawal if they reside in a state that has been declared a federal disaster area by FEMA. For up to date information on the states included in this declaration, please visit www.fema.gov/coronavirus.

There has been no guidance issued on what documentation is required for this distribution, so the coronavirus in-service distribution may be a better option until guidance is received. The coronavirus distribution is not subjected to the stricter hardship requirements or subject to the 10% penalty on early withdrawal.

Required Minimum Distribution (RMD) Waiver for 2020:

Qualified 401(a), 401(k), 403(a), 403(b), governmental 457(b) plans and IRA'S will not be required to make RMD distributions in 2020. Participants who turned 70 ½ prior to 2019 may skip their 2020 RMD. Participants who turned age 70 ½ in 2019 but delayed their first RMD until April 1, 2020 are not required to take their 2019 or 2020 RMD. If an RMD has already been taken in 2020, this may be rolled into an IRA with no tax consequences

Additionally, a participant can elect to receive their RMD in 2020 and the roll it into an IRA. RMD'S will resume in 2021.

The RMD waiver does not apply to defined benefit/cash balance plans.

Defined Benefit and Money Purchase Pension Plans:

The CARE Act also provided relief to single employer defined benefit and money purchase plans by delaying funding obligations due in 2019 until January 1, 2021. It did not change the funding obligations that would normally be owed in 2021 (ie. 2020 plan year). Delayed payments will be subject interest accrual using an effective rate of interest.

Plan Sponsor Next Steps:

The coronavirus distributions and increased loan limits are optional plan provisions. Plan Sponsors need to evaluate which of the new programs they wish to add to their plan. This may include doing nothing and maintaining their plan as is. However, loan extensions must be granted regardless.

Work closely with your plan consultant to determine the best course of action for your plan.

Outstanding Issues Awaiting Further Guidance:

As with any new legislation, further guidance is still needed and will be forthcoming in the next few weeks/months. At this point we are awaiting guidance on the following items:

1. Relief from spousal consent on distributions. To date, the IRS nor the DOL have provided guidance on any relief that may be offered to plans subject to joint survivor annuity provisions.

2. Unforeseeable Emergency Withdrawal Provision. No guidance has been received to determine if coronavirus related financial need would qualify as part of a non-qualified plans' unforeseeable emergency distributions.