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RETIREMENT PLAN SOLUTIONS

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SPRING 2020

Inside This Issue

I'M NOT DONE YET - OLDER EMPLOYEES IN THE WORKFORCE

While Millennials have been the focus of much of the discussion around the evolution of the workplace, the U.S. Bureau of Labor and Statistics reports that the number of employees aged 65 and older has increased nearly 70% in the last decade. Combined with projections that they will constitute a quarter of the labor force by 2028, older employees are the fastest growing workplace demographic. As retirees increasingly postpone retirement or gradually transition via part-time positions, it is helpful for plan sponsors to consider this trend and how they can best meet the needs of this growing employee demographic.

Why Are Older Employees Postponing Retirement?

Several considerations have contributed to a shift toward a later retirement for many of these employees. For example:

- **Longevity -** Advancements in medicine and technology enable people to live longer. According to an article in *Population and Societies Magazine*, the average human life expectancy increases three months every year, and in the U.S. the expectation for median life expectancy has increased from 47 years in 1900 to 79 years today.
- **A Too-Conservative Investment Approach -** Older employees who may be at risk of outliving their assets due to an overly conservative retirement investment approach during their earlier working years may now choose to work longer to mitigate this risk of outliving their money in retirement.
- **Fulfillment Through Work -** Employees who feel strong personal gratification from their work may choose to forego retirement altogether. These employees often cite the health benefits of continued socialization, intellectual stimulation and the sense of purpose and meaning a job gives to their lives.

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CONSIDERING THE SECURE ACT

Derrin Watson, JD, APM
Retirement Plan Industry Expert and ERISA Attorney

Signed into law at the end of 2019, the Setting Every Community Up for Retirement Enhancement Act (SECURE Act) includes a wide array of provisions that make it the most extensive retirement plan legislation since the Pension Protection Act of 2006. We spoke to retirement plan industry expert and ERISA attorney Derrin Watson to get his perspective on this new law.

Derrin highlighted the following three provisions as noteworthy developments with more to come as additional details are formalized by the Departments of Treasury, Labor, and the IRS.

1. Multi-Employer Plans (MEPs) - open MEPs will likely be converted to Pooled Employer Plans (PEPs) under the new law, and many may take advantage of the PEP rules, which could significantly impact retirement plan practice.

What this provision means:

- Effective 2021, this provision allows a Pooled Plan Provider (PPP) to sponsor a Multiple Employer Plan/Pooled Employer Plan (PEP) for its clients.
- While the PPP assumes responsibility as a fiduciary and plan administrator, the plan sponsor also acts as a fiduciary in deciding to join a specific PEP and is responsible for monitoring the Pooled Plan Provider and other plan fiduciaries.
- The plan sponsor is also the investment fiduciary for its portion of the PEP unless they delegate that investment management oversight to another party. Most PEPs will engage a fiduciary investment manager to relieve the employer of this responsibility.

2. Safe Harbor Notices - Effective for plan years beginning after 12/31/19, the SECURE Act eliminates the need for plan sponsors to give safe harbor notices if they have a safe harbor retirement plan with only non-elective contributions. Nonelective plans provide a specified level of employer contributions without requiring employee contributions.

This provision eliminates the administrative burdens for the plan sponsor in both the adoption and maintenance of these plans. Derrin also notes, *"I was pleased that this provision eliminates safe harbor notices for nonelective plans. While annual notices make sense for safe harbor match plans, they serve little purpose in the absence of matching contributions. This provision eliminates wasted paperwork."*

Additional important considerations:

- If employers in this challenging economy are considering suspending their safe harbor contribution, they may still need to give notice.
- Having left safe harbor during the year, they may not be able to come back to it that same year.
- The IRS will most likely provide further guidance on this issue.

3. Birth and Adoption Distributions - There has been much interest in the SECURE Act's birth and adoption distribution rules, and Derrin has been responding to many inquiries on this topic. *"It will be interesting to see how many employees choose to exercise this provision, and there is still a lot of uncertainty surrounding the implementation of it,"* Derrin notes.

What's important to know:

- Participants who have or adopt a child after 2019 can now take a distribution of up to $5,000 from a retirement plan (other than a defined benefit plan) or IRA without having to pay the 10% premature distribution tax, if the plan permits.
- This is only if the withdrawal is made within one year of the birth or adoption.
- The distributed funds may be repaid and treated like a rollover to a retirement plan or IRA, and there appears, at present, to be no deadline on repayment.

The SECURE Act implements a number of important provisions, including the three highlighted above, that impact the structure and treatment of retirement plans. Your local ABG representative can help you with any questions you may have about any potential impacts the SECURE Act provisions may have on your company's retirement plan.

CORONAVIRUS & THE CARES ACT: WHAT PLAN SPONSORS NEED TO KNOW

As American workers and businesses continue to grapple with the health and economic ramifications of the COVID-19 global health crisis, plan sponsors face the additional challenge of reevaluating the offerings under their current benefit plans, including their retirement plans. In addition to dealing with the economic implications, the passage of the Coronavirus Aid, Relief, and Economic Security (CARES) Act adds complexity to retirement plans and other benefit issues that plan sponsors must consider.

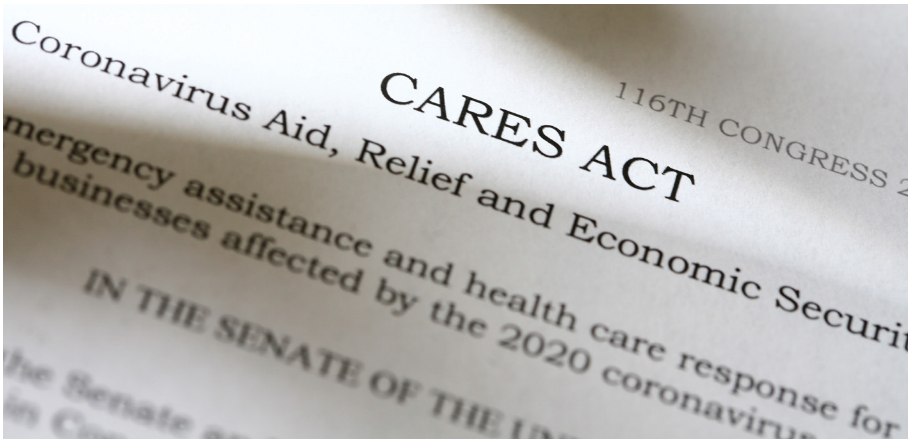
How Plan Sponsors Are Responding

According to an April 2020 survey by the Plan Sponsor Council of America (PSCA), nearly 77% of total respondents stated that they are not considering making any changes to the existing offerings within their current retirement plan. However, this number dropped when respondents were polled about their intention to incorporate the optional provisions provided by the CARES Act. While 47% of those polled stated their intention to offer at least one of the four major provisions, as outlined below, nearly 58% responded that they intend to wait for further guidance from regulators before making a final decision.

The CARES Act's 4 Major Retirement Plan Provisions

While the CARES Act contains a wide range of stimulus provisions, there are four major optional provisions that plan sponsors can elect to include within their retirement plans:

1. Allowing penalty-free distributions of the lesser of 100% or $100,000 of the retirement plan participant's vested employer-sponsored retirement account until December 31, 2020.
2. Providing plan participants with the option to withdraw funds from their retirement plan penalty-free, and not be subject to the regular retirement plan contribution cap if repaid within three years.
3. Allowing plan sponsors to increase the amount plan participants can borrow from their retirement plans to the lesser of 100% or $100,000.



4. Suspending retirement plan loan payments due prior to December 31, 2020 with the opportunity for plan participants to defer these payments for up to one year.

According to the PSCA, 47% of plan sponsors were most willing to offer participants the option to repay retirement plan withdrawals within three years, while only 32% of sponsors indicated their intention to increase their plan loan limit. Although these preferences were reflected across the range of plan sizes, larger retirement plans were more likely to offer the optional provisions than smaller plans.

Additional Provisions

The CARES Act also contains additional provisions that, while not necessarily tied to retirement plans, plan sponsors should be aware of. These include:

- Waiving the required minimum distribution (RMD) in 2020 for participants, thereby allowing those individuals to leave funds in these accounts in order to have the time to potentially recoup market losses
- Enabling employers to apply their IRS tax-free tuition reimbursement limit to employees' student loan payments with no tax implications.
- Allowing telemedicine services to be covered pre-deductible without violating federal rules for high deductible health plans combined with Health Savings Accounts (HSA).

The CARES Act has provided plan sponsors with several options to augment their existing retirement plans and assist employees who may have been financially impacted by the coronavirus. If you have questions about the any of the provisions or implementation of the CARES Act, your local ABG representative is available to help.

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- **New Career Aspirations –** Other employees who feel they are not ready for full retirement have opted to embark on new careers, often teaching or privately consulting within their former industry. According to a study by Dr. Nicole Maestas, a professor of healthcare policy at Harvard Medical School, nearly "50% of retirees follow a nontraditional retirement path that involves partial retirement and unretirement, and at least 26% of retirees later unretire."

The Employer Benefit of Seasoned Employees

The employer also benefits from the longer retention of experienced employees. The increasing costs of recruiting, training and retaining talented employees has provided a financial reason for businesses to value older employees who contribute greatly to their companies' mission. More importantly, the experience, industry expertise and institutional knowledge these employees offer can be significant. With some of these employees seeking to gradually transition into retirement at their own pace, many companies have developed flexible work arrangements and part-time positions to accommodate this desire.

Incorporating Older Employees into Benefit and Retirement Planning

To meet the needs of this growing older employee cohort, plan sponsors may want to consider the following initiatives:

- Tailored communications to older employees about retirement plan strategies that factor in their retirement horizons in terms of capital preservation, future income distribution, and continued growth to mitigate the risk of outliving assets.
- Communicating the provisions under the Setting Every Community Up for Retirement Enhancement (SECURE) Act that enables long-term, part-time employees to participate in defined contribution plans. Older employees will be able to transition to part-time employment and still continue to contribute to their retirement plan if they perform 500 annual hours of work service for three consecutive years.
- Reminding these participants that, per the SECURE Act, if they turned 70½ after December 31, 2019, they will now not be required to start taking Requirement Minimum Distributions (RMDs) from their retirement accounts until age 72, instead of age 70½.
- Encouraging this older cohort to contribute to a Health Savings Account (HSA). This tax-advantaged account allows individuals to save and invest funds that can be withdrawn penalty-free if used for qualifying medical expenses. It provides older employees an additional reserve of funds versus drawing on primary retirement accounts later for medical expenses.

Older Employees: Here to Stay

As more employees prefer to forego, delay, or semi-retire, employers and plan sponsors will have to increasingly consider the unique needs and motivations of older employees. ABG stands ready to help with any questions or needs plan sponsors may have as they consider this important and growing segment of the workforce.

TAX TALK

In this issue of Tax Talk, we update you on important upcoming compliance deadlines for defined contribution plans and remind you of some of the new SECURE Act and CARES Act retirement plan provisions.

Upcoming Compliance Deadlines

May 2020		
May 15	»	Deadline for participant-directed DC plans to supply participants with the quarterly benefit/disclosure statement and statement of plan fees and expenses charged to individual plan accounts during first quarter of this year.
June 2020		
June 28	»	Deadline for retirement plans with publicly traded employer securities to file their Form 11-K annual report.
June 30	»	ADP/ACP refunds for EACA plans are due to highly compensated employees (HCEs), to avoid a 10% excise tax on the employer.
July 2020		
July 28	»	Summary of material modifications is due to participants—i.e., 210 days after the end of the plan year in which the change was adopted—unless it was included in a timely updated summary plan description (SPD).
July 31	»	Form 5330, which reports excise taxes related to employee benefit plans, is due to the IRS.
	»	Form 5500 is due to the IRS for plans with a December 31 plan year-end.
	»	Form 5558, used to apply for an extension to file forms 5500 and/or 5330, is due to the IRS.
	»	Deadline for nonparticipant-directed DC plans and Employee Retirement Income Security Act (ERISA) 403(b) plans to disseminate their annual benefit statement to participants.

New And Noteworthy

With the passing of the SECURE Act and the CARES Act, here are some important new provisions to note:

» Per the new SECURE Act, owners of IRAs and qualified plan accounts who turn 70½ after December 31, 2019, will not be required to start taking Requirement Minimum Distributions (RMDs) from their retirement accounts until age 72, instead of age 70½.

» Employers can now include long-time, part-time employees in defined contribution plans if they perform 500 annual hours of service for three consecutive years and are age 21 or older (exceptions to this are made for collective bargaining plans). These participants can be excluded from safe harbor contributions, nondiscrimination and top-heavy requirements.

» The SECURE Act introduced a new tax credit of up to $500 per year for three years that will help employers cover startup costs for new retirement plans that include automatic enrollment or convert existing retirement plans to automatic enrollment. The Act also increased the tax credit to offset small business retirement plan startup costs from $500 per year up to $5,000 per year for three years.

» The CARES Act allows the participant to take a distribution and/or borrow from their 401(k) plan. It also allows participants to waive all RMDs for 2020. Please see the Legislative Highlights article in this newsletter for more information and as always, consider your local ABG representative as a resource for any questions.

LEGISLATIVE HIGHLIGHTS

This quarterly legislative column provides timely defined contribution industry insights and updates for plan sponsors.

SECURE Act 2.0

The passage of the SECURE Act has made members of Congress eager for more progress in the form of SECURE Act 2.0, which would combine the Automatic Retirement Plan Act and the Retirement Plan Simplification and Enhancement Act.

The key provisions of SECURE Act 2.0 would:

» Include a requirement for many employers to offer a 401(k) or 403(b) plan.

» Exempt retirement savings below $250,000 from complicated required minimum distribution rules.

» Make it easier to take advantage of the saver's credit.

However, the 2020 Presidential Election will complicate lawmakers' efforts to pass more retirement legislation. Many legislative experts believe retirement legislation is always going to be bipartisan, but the shortened year will probably make it difficult to get something completed.

The CARES Act

This $2 trillion economic stimulus package allows for Coronavirus Related Distributions (CRDs) for individuals who have either contracted COVID-19 or have a spouse or dependent who has contracted COVID-19, or who have lost a job, been furloughed or suffered a financial burden because of COVID-19.

The CARES Act allows these individuals to:

» Take up to $100,000 from their employer-sponsored retirement plan without being subject to the 10% early distribution penalty or the 20% mandatory tax withholding.

» Treat this CRD as regular income, spread it over three years for tax purposes, and repay it within three years without being subject to the regular retirement plan contribution cap, all while avoiding taxation. This provision covers the entire 2020 calendar year, so even 2020 distributions made prior to the enactment of the CARES Act may be treated as CRDs.

» Borrow more from their 401(k)s. The 401(k) loan amount allowed has been increased to the lesser of 100% of the vested balance (up from 50%) or $100,000 (up from $50,000). In addition, participants with loan repayments due between 3/27/2020 and 12/31/2020 can elect to delay them for one year. Interest will continue to accrue, but the term of the loan will be extended.

» Delay their Required Minimum Distributions (RMDs) if they are 72 years old. By law, participants turning 72 are required to start taking RMDs based on previous calendar year-end market values. The CARES Act waives all RMDs for 2020. Any RMDs already taken in 2020 (including 2019 RMDs paid in 2020) are eligible for a 60-day indirect rollover (or three-year repayment under CRD rules) and won't be considered to have been taken as a distribution.

CRDs and the relaxed loan provisions are optional retirement plan features. For further guidance on these new provisions, contact your local ABG representative for details.

ABG NEWS

Don Mackanos
President, ABG National

Alliance Benefit Group (ABG) is pleased to announce the winners of its 2019 Plan Sponsor of the Year awards. ABG National's President, Don Mackanos, said, "Since we had so many great plan sponsor stories, we voted "Best of" winners in three categories: Best Plan Design, Best Participant Education and an Overall Plan Sponsor winner."

ABG created this program in 2017 with an emphasis on raising awareness of employers focusing on employee retirement readiness and how they can make a real difference in participant outcomes. All winners will receive a beautiful crystal award for display in their office.

Best Plan Design: Adamas Pharmaceuticals

Adamas Pharmaceuticals saw the need to make changes to their retirement plan to attract and retain talent. Over a 6-9 month period that included initial analysis, benchmarking, budgeting, project planning and execution, they were able to make significant changes, including offering an attractive matching contribution. As a result, participation increased, and employee turnover has decreased.

Best Participant Education: Carle Foundation Hospital

Carle Foundation Hospital increased participation and contribution rates, which also translated into better retirement readiness for their workforce. Ongoing monitoring of the effectiveness of their communication programs, including an email campaign focused on education and participant feedback, were key elements to their success. Automatic enrollment and savings increases were part of Carle's comprehensive approach.

Overall Plan Sponsor of the Year: Vermeer

After the economic downturn of 2008, participation in Vermeer's 401(k) plan had fallen and only 19% of the workforce was on track to replace 75% of their income at retirement. Working with investment advisory firm intellicents, Vermeer adopted an Education Policy Statement that emphasized retirement readiness through plan design, high-touch communication and one-on-one consultation meetings to engage participants. Plan design features such as auto enrollment and auto escalation were also introduced.

Now approximately 84% of Vermeer's retirement plan participants contribute at least 6% to receive the company's matching contribution, while approximately 60% of participants are on track to replace 75% of their income at retirement. Custom target date funds have been added, while monthly education meetings, quarterly onsite one-on-one consultations and annual pre-retirement group meetings, held for ages 55+ (and their spouses), are a part of Vermeer's comprehensive retirement plan approach.

DID YOU KNOW?

- An estimated 10,800 Americans will turn 65 years old each day this year (2020). This group represents the 10th year of 19 years of "Baby Boomers" turning age 65. An estimated 11,500 Americans will turn 65 years old each day in the year 2029 (source: Government Accountability Office).
- More than half of American workers (54%) have not started a defined contribution retirement plan at work (e.g., a 401(k) plan) or have access to a defined benefit pension plan funded exclusively by their employer (source: Center for Retirement Research at Boston College).
- 59% of Americans surveyed in early February 2020 admit they live "paycheck-to-paycheck" and are unable to consistently put money away for an emergency or for retirement (source: Charles Schwab Modern Wealth Survey).