Employee Benefit Plans Alert

Pension and Health Provisions of the CAA, 2021

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As part of our commitment to helping our clients stay informed of changing Employee Benefits issues, we are pleased to provide you with new information and perspectives that were included in the Consolidated Appropriations Act (CAA, 2021).

Listed below are several items that may affect one or more of your Employee Benefit programs.

- Money Purchase Plan Distributions
- Plan Terminations – Temporary Rule
- Transfer of Excess Pension Plan Assets
- Minimum Age for Distributions During Working Retirement
- Health and Dependent Care Flexible Spending Arrangements
- Fringe Benefit – Student Loans

Money Purchase Plan Distributions Can Qualify as Coronavirus-related Distributions

The CARES Act provided for special tax treatment for a "coronavirus-related distribution" from a retirement plan. It provided an exception to the 10% additional tax for early distributions from qualified retirement plans made to a qualified individual.

The new legislation clarifies that money purchase pension plans are included in the types of retirement plans qualifying for the CARES Act provisions, allowing individuals to make penalty-free withdrawals from certain retirement plans for coronavirus-related expenses and increasing the allowed limits on retirement plan loans. The provision applies retroactively as if originally included in the CARES Act. The CARES Act (currently) does not allow for coronavirus-related distributions beyond December 31, 2020. Additional IRS guidance will be needed to extend this date.

The effective date of this change is retroactive to the effective date of the CARES Act – March 27, 2020.

Temporary Rule Preventing Partial Plan Terminations

Due to the pandemic, many employers downsized their workforce. Depending on the number of affected participants in the employer's retirement plan, a partial termination of plan may have occurred.

Below is a summary of the relief Congress included in the CAA, 2021.

The Internal Revenue Code (IRC) requires a qualified retirement plan must provide that, upon its "partial termination," the rights of all affected employees to benefits accrued to the date of the partial termination, to the extent funded on that date or the amounts credited to their accounts, become non-forfeitable (i.e., 100% vested).

Whether or not a qualified plan incurs a partial plan termination is determined by examining all the facts and circumstances. The facts and circumstances include: the exclusion – by reason of a plan amendment or employer-initiated severance – of a group of employees who have previously been covered by the plan, as well as plan amendments that adversely affect the rights of employees to vest in benefits under the plan.

CAA 2021 provides that a plan won't be treated as having a partial termination during any plan year which includes the period beginning on March 13, 2020 and ending on March 31, 2021, if the number of active participants covered by the plan on March 31, 2021 is at least 80% of the number of active participants covered by the plan on March 13, 2020.

The effective date is the date of enactment of the CAA, 2021.

Transfer of Excess Pension Plan Assets

IRC §420 has been amended for tax years beginning after December 31, 2019. Current law allows certain "qualified future transfers" for up to 10 years of retiree health and life insurance costs may be transferred from a defined benefit pension plan to a retiree health benefits account and/or a retiree life insurance account within the pension plan. Those transfers must meet a number of requirements: the plan must be 120% funded at the outset, it must be 120% funded throughout the transfer period, all unused amounts must be transferred back, and the plan is subject to a maintenance of effort requirement.

Due to market volatility caused by the pandemic, the 120% funding requirement was frequently not maintained resulting in a requirement to restore the plan to the 120% level.
Under the CAA 2021, employers will be permitted to make a one-time election during 2020 and 2021 to end any existing transfer period for any taxable year beginning after the date of election. However, several funding level targets and other requirements must be satisfied throughout the transfer period.

Minimum Age for Distributions During Working Retirement

CAA 2021 would allow certain construction and building-trades workers age 55 years or older who are receiving retirement benefits to continue to work and receive such benefits.
Typically, early or phased retirement distributions from qualified retirement plans cannot occur until the occurrence of the participant attaining age 62, or a termination of employment by: death, disability, early retirement or other severance from employment.

The effective date of this provision is for distributions before, on or after the date of enactment.

Health and Dependent Care Flexible Spending Arrangements

CAA 2021 is allowing flexibility for participants in these type of arrangements to rollover unused amounts in their health and dependent care flexible spending accounts (FSAs) from 2020 to 2021. Similarly, unused amounts from 2021 elections can be carried over to use through the end of 2022. The legislation would allow this extended 12-month grace period. Previously, the grace period for unused FSA amounts was limited to the first 2½ months of the following year. In addition, the current $500 carryover limit for health FSAs can be changed to an unlimited amount.

Employers would be permitted to allow employees to make an election or change to an existing health or dependent care FSA election at any time in 2021. This change would be permitted without meeting any of the “change in status” requirements contained in the §125 regulations. Consistent with other guidance issued by the IRS, refunds of previously- contributed amounts still would not be permitted.

Amendments to a plan document (cafeteria plan) for the above changes are required by the end of the year after the year when the provision became effective.

Fringe Benefit – Student Loans

The allowance for employers to provide a student loan repayment benefit to employees on a tax-free basis has been extended through 2025. Under the provision, an employer may contribute up to $5,250 annually toward an employee’s student loans, and such payment would be excluded from the employee’s income. The $5,250-dollar limit applies to both the student loan repayment benefit, as well as other educational assistance (e.g., tuition, fees, books) provided by the employer. Educational assistance requirements (e.g., plan document and nondiscrimination testing) is located in §127 of the Internal Revenue Code. The provision applies to any student loan payments made by an employer on behalf of an employee through 2025.

Contact Us

The Employee Benefit Services Group at PKF O'Connor Davies is available to assist employers with the various compliance reporting and other requirements imposed by federal agencies. We also provide a full spectrum of compliance services for qualified retirement plans, non-qualified deferred compensation plans, and welfare plans. For more information, please contact your client services partner or either of the following:

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