The CARES Act

The Coronavirus Aid, Relief and Economic Security (CARES) Act is the third round of federal government support in response to the coronavirus crisis and associated economic fallout.

In addition to economic assistance for both individuals and businesses, the CARES Act provides further relief to sponsors and participants of retirement plans who are adversely affected by COVID-19.

Provisions Impacting Retirement Plans

- **Expands the amount of permissible distributions from retirement plans**
  - Waives the 10% early distribution penalty on coronavirus-related distributions of up to $100,000.
  - The withdrawal must be made on or after the date of the enactment of the CARES Act but before December 31, 2020.
  - Withdrawn amounts are taxable ratably over three years.
  - Participants can repay these distributions at any time over a three-year period that begins the day after the distribution.
  - Participants may make more than one repayment and may repay any plan that they are a beneficiary of, including IRAs.
  - Participants who repay distributions can file an amended return to recover tax paid on income reported in earlier years.
  - Since these distributions are not considered rollover eligible, the 20% mandatory Federal income tax withholding does not apply. The standard 10% federal tax withholding does apply unless the individual selects a different amount of withholding.
  - Repayments are treated as rollovers.
  - Repayments will not affect annual annual additions limit.
  - Potential sponsor issue—the aggregate amount distributed from all plans maintained by the employer (and any controlled group members) may not exceed $100,000.

PENTEGRA

Provisions Impacting Retirement Plans (continued)

- **Increases plan loan limits**
  - Loan limit increased to the lesser of $100,000 or 100% of a participant's vested account balance.
  - Applies to loans taken during the 180 day period beginning March 27, 2020 through September 22, 2020.
  - Extends repayment periods up to one year for both new and existing loans.
  - Delayed repayments need to adjust the loan for interest that accrues during the delayed period.

- **Individuals qualifying for relief under the CARES Act**
  - Diagnosed with COVID-19 or SARS-CoV-2 by a test approved by CDC (Centers for Disease Control and Prevention).
  - Individuals whose spouse or dependents are diagnosed with COVID-19 or SARS-CoV-2 by a CDC-approved test.
  - Experience adverse financial consequences as a result of being quarantined, furloughed, laid off, having work hours reduced, being unable to work due to lack of child care, or closing or reducing hours of a business owned or operated by the individuals due to the virus.
  - Participant "self certification" can be relied upon by the ERISA-Named Plan Administrator in order to approve eligibility for the enhanced loan and distribution features.

- **These loan and distribution provisions are optional, not mandatory.** Plans may use the new rules as long as a plan amendment is adopted before the end of the 2022 plan year or 2024 plan year for governmental plans.

- **Temporarily waives Required Minimum Distributions (RMDs) for 2020**
  - This provision is mandatory.
  - Applies to defined contribution plans, including 401(k), 403(b), 457(b) and IRAs.
  - Allows individuals to keep funds in their retirement plans.

- **Provides funding relief for Single Employer Defined Benefit Plans**
  - Provides more time to meet plan funding obligations by delaying the due date for any contributions otherwise due during 2020 until January 1, 2021; at that time, contributions due earlier would be due with interest. This applies to minimum required contributions and quarterly contributions.
  - Allows plans whose funded ratio falls below 80% as a result of market declines during the COVID-19 crisis to avoid benefit restrictions by electing to apply the plan's 2019 funded ratio to 2020.
  - This also applies to the Pentegra Defined Benefit Plan for Financial Institutions, as the plan follows single employer plan funding rules.

- **Expands the Department of Labor's authority to postpone certain deadlines under ERISA**

Provisions Impacting Businesses

- **Provides small business interruption loans**, to assist small businesses (fewer than 500 employees) impacted by the pandemic and economic turndown to make payroll and cover other expenses.
  - Small businesses may take out loans up to $10 million and cover employees making up to $100,000 per year.
  - Loans taken for this purposes are forgiven.

- **Delays quarterly corporate tax payments until 10/15/2020.**

- **Delays Social Security payroll tax payments until January 1, 2021.** The Social Security Trust Fund will be back-filled by general revenue in the interim period.

- **Allows carry-back operating losses from 2018, 2019, or 2020 for 5 years.**
  - Firms may take net operating losses (NOLs) earned in 2018, 2019, or 2020 and carry back those losses five years.
  - The NOL limit of 80 percent of taxable income is also suspended so firms may use NOLs they have to fully offset their taxable income.

- **Expands the net interest deduction limitation to 50% of EBITDA** (earnings before interest, tax, depreciation, and amortization) for 2019 and 2020.

- **Temporarily unwinds two Tax Cuts and Jobs Act (TCJA) provisions**, the corporate alternative minimum tax and deducting interest on loans.

- **Guarantees emergency relief to businesses** including airlines and other distressed industries through loans and loan guarantees.

- **Includes health provisions to address the coronavirus crisis**, including provisions addressing supply shortages, coverage of diagnostic testing for the virus, support for health-care providers, improving telehealth service access and flexibility, encouragement for the creation of drugs to treat the virus, and support for educational institutions.

Provisions Impacting Individuals

- **Provides direct payments to individuals and families**, authorizing direct payments to individual taxpayers.
  - For individuals with incomes up to $75,000, the Act provides a $1,200 payment, phasing out at a rate of 5 percent for every $1,000 in income above $75,000.
  - The payment is phased out entirely for an individual making $99,000 or more.
  - Married couples with combined incomes up to $150,000 would receive $2,400, subject to the same phaseout that applies to individuals.
  - The provision also provides payment of an additional $500 per child, also subject to phaseout.
  - Eligibility and benefit levels would be based on 2018 income tax filings.
  - Eligibility and benefit levels would be based on 2018 or 2019 income tax filings subject to final adjustment when 2020 tax returns are filed.

- **Extends the income tax filing deadline from April 15, 2020 to July 15, 2020**, complementing actions already taken by the Treasury to allow taxpayers to delay any tax payments due.