CARES ACT UPDATED THROUGH 7/10/2020

On Friday, March 27, 2020, the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") was signed into law. Included in the massive financial relief package were several important provisions impacting retirement plans and designed to assist plan participants. *Since that time, there has been additional guidance issued to both expand the CARES Act provisions and further explain certain other provisions.* We have incorporated these new changes below:

- A new, optional type of distribution is permitted for coronavirus-related distributions ("CRDs").
  - Who qualifies –
    - Participant, spouse or dependent has been diagnosed with the virus via a CDC-approved test.
    - Participant, spouse or a member of the participant's household has been impacted financially **by COVID-19** –
      - through layoff, furlough, quarantine,
      - through reduction in hours or reduction in pay or self-employment income, or having a job offer rescinded or start date for a job delayed,
      - due to inability to work due to lack of child care as a direct result of the pandemic,
      - due to a business owned or operated needing to close or reduce hours
    - If any of the above apply, the participant will be required to self-certify that one of the above conditions applies as a direct result of the coronavirus pandemic.
  - Maximum withdrawal is $100,000. Vesting tables still apply. The amount of the withdrawal does not need to be related to the individual's financial need.
  - 10% early distribution penalty is waived
  - Distribution is not eligible for rollover. Therefore, 10% optional withholding would apply (unless participant elects otherwise).
  - Distribution <u>**will**</u> be subject to income tax.
    - The tax can be spread equally over a three-year period.
    - If the participant is able, all or part of the withdrawal can be repaid within three years, either to the affected plan or any other plan that accepts rollovers. If income tax was paid on any portion of an amount that is repaid, the participant can file an amended tax return to recover the tax paid.
  - Beneficiaries who are qualified individuals can treat distributions as CRDs
- The $50,000 loan limit has been increased to 100% of a qualified participant's vested account balance with a loan maximum of $100,000. A qualified participant is one that could meet the same coronavirus-related tests as discussed above for coronavirus-related distributions.
  - COVID-19 loans must be requested during the 180 days following enactment of the CARES Act (up to September 23, 2020).

  - Additionally, loan repayments due between March 27, 2020 and December 31, 2020 can be delayed until December 31, 2020. Please note that this preferred treatment only applies to qualified individuals.
    - Repayments must begin no later than the first paycheck in January 2021.
    - The maximum 5-year loan repayment term is also extended one year from the original maturity date (please note that interest will accrue during the suspension period).
  - A Plan Sponsor can elect to permit suspension of loan repayments for participants who are not considered qualified individuals -from April 1, 2020 through July 14, 2020. Interest accrues during the suspension period. However, the five-year period is not extended for any of these repayments.
- Required Minimum Distributions due in 2020 will not be required in order to permit assets to recover in value.
  - Please note that this includes any initial required distributions with a due date of April 1, 2020.
  - The waiver applies to certain defined contribution plans, 403(b) plans, governmental 457(b) plans and IRAs. Defined benefit plans are not exempted.
  - Participants who have already received a required distribution in 2020 will be permitted to rollover to an IRA or permitted to roll those monies back into the plan by August 31, 2020.
    - Rollover of 2020 RMDs to IRAs are not subject to the one rollover per year limit.
    - Non-spouse beneficiaries can rollover 2020 RMDs.
  - If a participant died between 2015 and 2019, distributions under the 5-year rule are extended for one year as is the decision to elect the between the life expectancy rule and the 5-year rule.
  - Alternatively, if a participant decides not to rollover a 2020 RMD, it can be considered a coronavirus-related distribution and taxes paid ratably over 3 years.
- Safe harbor plans can be amended mid-year for the purpose of excluding highly compensated employees from safe harbor contributions and still maintain safe harbor status.
- If a participant lives in a state that has been declared a FEMA major disaster area that has been approved for individual assistance, the plan could permit a hardship distribution.
- Single employer defined benefit plan funding requirements for 2020 can be deferred <u>until January 1, 2021</u>. However, interest will accrue. A plan sponsor may elect to apply the plan's 2019 funded status in determining the application of benefit restrictions in plan years containing the 2020 calendar year,

Plans will need to be amended to conform their plans to their operation. However, the deadline for amending the plan is delayed until the last day of the plan year beginning on or after January 1, 2022.

Please contact your Plan Consultant with any questions. Our best wishes are with you and your family as we navigate through this difficult time.