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Senate Takes Up Coronavirus Stimulus Bill with Retirement Relief

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LEGISLATION

After five days of intense negotiations, the Senate was set to vote Wednesday on an unprecedented $2 trillion stimulus bill covering every aspect of the U.S. economy, including retirement relief provisions supported by the American Retirement Association.

Earlier today (March 25), the Senate leadership released the final Coronavirus, Aid, Relief and Economic Security (CARES) Act (H.R. 748 as amended), as negotiated by Senate Republicans and Democrats and the Trump administration. Once the legislation is approved by the Senate—which is expected—the legislation will move to the House of Representatives, where it may also be approved today under "unanimous consent," though it could be held up if a member objects to that approval process. Assuming it is approved, the bill would be sent to the the White House for President Trump's signature; Treasury Secretary Steve Mnuchin has previously indicated that President Trump would sign the bill.

As for the retirement-based provisions, the final bill sticks closely to what was initially proposed by Senate Majority Leader Mitch McConnell (R-KY), including provisions to ease retirement plan hardship and loan rules to free up funds for individuals impacted by the pandemic and to provide relief from the required minimum distribution (RMD) rules. The final bill also adds funding relief for single-employer defined benefit plans.

Below are the key provisions affecting retirement plans.

Hardship Distributions (Section 2202): The CARES Act waives the 10% early withdrawal penalty tax under Internal Revenue Code Section 72(t) on early withdrawals up to $100,000 from a retirement plan or IRA for an individual who:

- is diagnosed with COVID-19;
- whose spouse or dependent is diagnosed with COVID-19;
- who experiences 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 due to COVID-19, closing or reducing hours of a business owned or operated by the individual due to COVID-19; or
- other factors as determined by the Treasury Secretary.

The legislation also permits those individuals to pay tax on the income from the distribution ratably over a three-year period and allows individuals to repay that amount tax-free back into the plan over the next three years. Those repayments would not be subject to the retirement plan contribution limits.

Plan Loans (Section 2202): H.R. 748 also doubles the current retirement plan loan limits to the lesser of $100,000 or 100% of the participant's vested account balance in the plan. Individuals with an outstanding loan from their plan with a repayment due from the date of enactment of the CARES Act through Dec. 31, 2020, can delay their loan repayment(s) for up to one year.

Plan Amendments (Section 2202): The legislation further permits retirement plans to adopt these rules immediately, even if the plan does not currently allow for hardship distributions or loans, provided the plan is amended on or before the last day of the first plan year beginning on or after Jan. 1, 2020, or later if prescribed by the Treasury Secretary.

Temporary Waiver of Required Minimum Distribution Rules (Section 2203): H.R. 748 waives RMDs for calendar year 2020 for DC plans, including 401(k), 403(b), 457(b) and IRA plans, allowing individuals to keep funds in their retirement plans. Under current law, individuals generally at age 72 must take an RMD from their DC plans and IRAs. The legislation also includes special rules regarding the waiver period to, in essence, hold harmless those individuals (and plans) who took advantage of the RMD waiver for 2020.

Single-employer DB Plan Funding Rules (Section 3608): New to the bill is a provision to provide single-employer defined benefit plan funding relief by giving companies more time to meet their funding obligations by delaying the due date for any contribution otherwise due during 2020 until Jan. 1, 2021. At that time, contributions due earlier would be due with interest. The provision also provides that a plan's status for benefit restrictions as of Dec. 31, 2019 will apply throughout 2020, such that a plan sponsor may elect to treat the plan's adjusted funding target attainment percentage for the last plan year ending before Jan. 1, 2020, as the adjusted funding target attainment percentage for plan years which include calendar year 2020.

Expansion of DOL Authority to Postpone Certain Deadlines (Section 3607): The legislation provides the Department of Labor with expanded authority to postpone certain deadlines under ERISA. In general, the legislation increases the circumstances to go beyond a terroristic or military action to also include a public health emergency declared by the Secretary of Health and Human Services under the Public Health Service Act.

ARA Presses for DC Funding Relief

In a **March 16 letter** to the DOL and Treasury Department, the ARA pressed the agencies to provide relief from various filing requirements, including an automatic extension of the Form 5500 series for retirement plans, an extension to the deadline for correcting a failed ADP or ACP test and an extension of the period for distributing excess contributions and excess aggregate contributions under a plan, among others.

Moving beyond the CARES Act, the ARA continues to push for additional assistance, including defined contribution funding relief. Most recently, **the ARA called on** the Treasury Department to provide relief to help employers facing significant financial burdens relating to the

Coronavirus, especially for retirement plans sponsored by small businesses. “The financial crisis facing employers might force them to terminate their plans rather than keeping them intact, but partially frozen, until the business recovers,” the ARA warned in a March 24 letter to Carol Weiser, Benefits Tax Counsel with the Department of Treasury.

What’s Next?

We will post updates once the Senate votes—first on cloture, a procedure for ending debate, which would require the support of 60 senators, and then on the bill itself, which would only require a majority vote. We’ll post updates on those votes as things progress—so please stay tuned.

Also, you won’t want to miss the upcoming ASPPA/ASEA Member Webcast Exclusive: Coronavirus Relief Update. On Tuesday, March 31, at 2:00 p.m. ET, please join ARA Retirement Education Counsel Robert Richter, ARA Director of Technical Education Bob Kaplan, and ASEA Executive Director Marty Pippins for an exclusive ASPPA/ASEA member update on the newly enacted provisions and how they might impact your plan(s). We’ll also cover the prospects for future relief, as well as the role you can play in helping make that a reality.

Please note: While registration for the webcast is unlimited, live attendance will be limited to the first 1,000. The webcast will be recorded, and a link shared with all who register for this exclusive event. This webcast will be eligible for continuing education credits!