

New Stimulus Legislation Affects Retirement Plans and Other Employee Benefits

Pamela D. Kaplan, Richard S. Chargar, Victoria E. Anderson

January 29, 2021

On December 27, 2020, the President signed into law the Consolidated Appropriations Act, 2021 (the “Act”), the latest major piece of legislation passed by Congress in response to the coronavirus pandemic. This advisory describes certain provisions of the Act affecting retirement plans and other employee benefits. In a [separate advisory](#), we described the Act’s impact on health and welfare plans, including health and dependent care flexible spending arrangements.

Relief from Partial Terminations for Retirement Plans

When a retirement plan experiences a partial termination, affected participants must become fully vested in their accrued benefits. Ordinarily, the Internal Revenue Service uses a rebuttable presumption that a partial termination occurs in a plan year in which there is a 20% or greater reduction in the number of participants. Under the Act, a plan will not 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.

Special Disaster Relief for Retirement Plans

- **Qualified Disaster Distributions.** The Act eliminates the 10% early withdrawal penalty on up to \$100,000 in distributions from eligible retirement plans to qualified individuals during the period beginning on the date of a qualified disaster and ending on June 24, 2021. A “qualified individual” is an individual who resided in a qualified disaster area at the time of the disaster and who sustained an economic loss due to the disaster. A “qualified disaster area” is any area where the President declared a disaster, other than an area declared a disaster area solely due to COVID-19, during the period beginning on January 1, 2020 and ending on February 25, 2021.

Qualified disaster distributions will be included in the qualified individual’s income ratably over a period of three years unless they elect to have such distributions fully taxed in the year of receipt. Qualified disaster distributions will not be subject to mandatory 20% withholding applicable to eligible rollover distributions. Recipients are permitted to repay qualified disaster distributions to an eligible retirement plan in one or more installments within three years following distribution, and such contributions will be treated as rollover contributions.

- **Repayment of Hardship Distributions for Home Purchases.** The Act permits repayment of hardship distributions that were intended for the construction or purchase of a principal residence in a qualified disaster area but were not used for such purpose due to the disaster. To qualify for repayment, the hardship distribution must have been received during the period

beginning 180 days before the incident period of the qualified disaster and ending 30 days after the last day of such incident period (or, if later, June 25, 2021).

- **Plan Loan Relief**

- **Increase in Plan Loan Limits.** The limit on loans from eligible retirement plans to qualified individuals (as defined above) during the 180-day period beginning on December 27, 2020 (i.e., ending on June 25, 2021) is increased to the lesser of (a) \$100,000 and (b) the greater of (i) 100% of the participant's vested accrued benefit and (ii) \$10,000.
- **Delay in Plan Loan Repayments.** The Act delays by one year (or until June 25, 2021 if later) plan loan repayments by qualified individuals (as defined above) that would otherwise be due during the period beginning on the first day of the incident period of the qualified disaster and ending 180 days after the last day of such incident period. Corresponding adjustments are made to any subsequent repayment schedule, including the mandatory 5-year repayment requirement.

The deadline for adopting plan amendments implementing the special disaster relief described above is generally the last day of the first plan year beginning on or after January 1, 2022 (i.e., December 31, 2022 for calendar year plans).

Additional Relief

- **Full Deduction for Business Meals.** For 2021 and 2022, the Act increases the allowable expense deduction for food and beverages purchased from a restaurant from 50% to 100%.
- **Student Loan Relief.** As described in our [April 3, 2020 advisory](#), the CARES Act allowed employers to provide up to \$5,250 in tax-exempt student loan repayment assistance under a Section 127 Educational Assistance Program through December 31, 2020. The Act extends this relief through December 31, 2025.
- **Employer Credit for Paid Family and Medical Leave.** As described in our [March 9, 2018 advisory](#), the 2017 Tax Cuts and Jobs Act contained a temporary federal tax credit of up to 25 percent of wages paid to certain employees for family and medical leave. The Act extends this relief through tax years ending on or before December 31, 2025.

If you have any questions about implementing the special disaster relief for retirement plans, or if you would like to discuss any other development described above, please contact a member of our Employee Benefits Group.