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Client Alert

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05.22.2020

The CARES Act and Suspension of Required Minimum Distributions (RMD)

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On March 27, 2020, President Trump signed the "Coronavirus Aid, Relief, and Economic Security Act" or the CARES Act into law. The new law consists of almost 900 pages. This Client Alert focuses on one provision of the Act related to the temporary waiver of the required minimum distributions rules for most retirement plans for calendar year 2020.

Section 401(a)(9) of the Internal Revenue Code contains the minimum distribution rules applicable to most retirement plans. The temporary waiver of the required minimum distribution ("RMD") rules is found in Section 401(a)(9)(I) and states that those rules "shall not apply for calendar year 2020." This waiver applies to: i) qualified plans described in Section 401(a); ii) tax-deferred annuity plans described in Sections 403(a) or 403(b); iii) tax-favored deferred compensation plans for tax-exempt organizations and state/local governments described in 457(b); iv) government-employer type deferred compensation plans described in 457(e)(1)(A); and v) individual retirement plans including Roth IRAs. Since Section 401(a)(9) is the section governing all required distributions, there is no distinction between lifetime RMDs and post-death RMDs. Both types of RMDs are temporarily waived for 2020. IRA owners, employees covered by company plans, and beneficiaries of either type of plan are not required to take a RMD in 2020.

When an individual reaches the age of 70½, the individual is allowed to take the RMD either during the year the individual turns 70½ or by April 1 of the following year (the "Required Beginning Date" or "RBD"). The CARES Act provides that for those individuals with a RBD of April 1, 2020 and who must take a RMD by April 1, 2020 (because the distribution was not taken in 2019), the temporary waiver applies to the RMD due by April 1, 2020. Consequently, an individual who turned 70½ in 2019 and chose to take their first RMD in 2020 rather than 2019, receives the benefit of two RMDs being waived (the 2019 RMD taken in 2020 and the 2020 RMD).

NOTE: There are many RMDs and retirement plans that are not affected by this particular provision.

- Inherited plans. The Required Beginning Date only applies to lifetime RMDs. Consequently, this provision does not apply to inherited retirement accounts.
- Account owners born after June 30, 1949. Individuals born after June 30, 1949 could not reach the age of 70½ prior to 2020. Consequently, those individuals will not begin taking RMDs until the year they reach the age of 72 (in accordance with the provisions of the new SECURE Act) with the earliest such year being 2021.
- Missed RMDs from previous years. A RMD that a participant or beneficiary missed in a previous year remains a RMD until it is distributed. The temporary waiver does not apply to or remedy these situations.

The temporary waiver of the CARES Act also impacts retirement accounts that are impacted by the 5-Year Rule. The 5-Year Rule is the general rule for required distributions following the death of a retirement plan owner who dies before the owner's RBD. The life expectancy payout and the 10-Year Rule are exceptions to this general rule and both are applicable where the plan benefits are payable to a designated beneficiary. The most common applications of the 5-Year Rule are when: i) a retirement plan owner dies before the owner's RBD and fails to name a designated beneficiary; or ii) the account owner's estate or a charity is designated as the beneficiary for the retirement account. As applied under the regulations, the 5-Year Rule requires the plan benefit to be distributed by the end of the year that contains the fifth anniversary of the account owner's death. The temporary waiver of the CARES Act provides that, in the case of an account owner who died in years 2015-2019 leaving plan benefits subject to the 5-Year Rule, the 5-year period is computed as if 2020 does not exist.

For those proactive account owners who have already taken their 2020 RMDs, the account owner might be able to roll the RMD back into an IRA. To determine if this is a possibility, the individual should contact their professional advisors to determine if the 2020 RMD is eligible for roll over treatment.

For more detailed information on the provisions of the temporary waiver in the CARES Act, please see Section 401(a)(9)(I) of the Internal Revenue Code, which was added to the Code by Section 2203 of the CARES Act.

Please do not hesitate to contact Stephanie C. Daniel at sdaniel@shumaker.com or 704.945.2954 if you have any questions.

For the most up-to-date legal and legislative information related to the coronavirus pandemic, please visit our Shumaker COVID-19 Client Resource & Return-to-Work Guide at shumaker.com. To receive the latest news and updates regarding COVID-19 straight to your inbox, sign up here.