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# ALERT: CARES ACT WAIVES REQUIREMENTS TO TAKE REQUIRED MINIMUM DISTRIBUTIONS FROM IRAS AND SUSPENDS LIMITS ON CHARITABLE DISTRIBUTIONS IN 2020

On March 27th the President signed the Coronavirus Aid, Relief and Economic Security (CARES) Act, a \$2 trillion package that provides relief to Americans and businesses in response to the COVID-19 pandemic. Sweeping in scope, the CARES Act includes the following provisions that we thought may be of particular interest to you.

## **Waiver of 2020 Required Minimum Distributions**

The CARES Act waives the 2020 required minimum distribution (RMD) rules for certain defined contribution retirement plans, including IRAs, Inherited IRAs, 401(k)s and 403(b) plans. This waiver would also be available to individuals who attained age 70 ½ in 2019 but delayed taking the first RMD until 2020.

If distributions from your retirement accounts are not required to meet your financial needs, you may wish to consider foregoing distributions and thereby reduce your 2020 taxable income. Moreover, since the 2020 RMD is based on account values as of December 31, 2019, when the financial markets were at near record highs, not taking your 2020 RMD would avoid disproportionately depleting the value of your retirement accounts during historic market declines.

If you have already received a distribution in 2020, you may be able to roll it back to your retirement account since, under the CARES Act, such a distribution would be considered an “eligible rollover distribution” rather than an RMD. However, to roll back such a distribution to your account, two conditions must be met: (1) the rollover must occur within 60 days of receipt of the distribution and (2) no other rollover has occurred within 365 days since only one distribution is permitted to be rolled over per 365-day period.

A few comments on these two conditions. First, the 60-day clock is ticking so you should act quickly. Do not assume that the Treasury Secretary will eliminate the 60-day rule-as it did in response to the 2008 financial crisis. Second, if you receive periodic distributions from your retirement accounts, you will also be limited by the one-rollover-per-365-day-period rule so you will not be able to rollback all your distributions.

Third, if taxes were withheld from your retirement plan distribution, in order to fully roll back your distribution to your account, you would have to also contribute the amount of the taxes withheld, otherwise the withheld amounts would be reported as a taxable distribution. Finally, the rollover option is not available to beneficiaries of an inherited IRA.

### **Waiver of 10% early withdrawal penalty**

The CARES Act waives the 10% early withdrawal penalty for distributions up to \$100,000 from qualified retirement accounts for coronavirus-related purposes made on or after January 1, 2020. Income attributed to such distributions would be subject to tax over three years. However, you may recontribute the funds to an eligible retirement plan within three years without regard to that year's cap on contributions. A coronavirus-related distribution is one made to an individual: (1) who is diagnosed with COVID-19, (2) whose spouse or dependent is diagnosed with COVID-19, or (3) 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 reduced hours of a business owned or operated by the individual due to COVID-19, or other factors as determined by the Treasury Secretary.

### **ROTH IRA Conversion**

Although not related to the CARES Act, if your 2020 income is expected to be substantially less than prior years, you may consider converting all or a portion of a traditional IRA to a ROTH IRA. The converted distribution would be subject to income taxes. However, the steep decline in the financial markets may make this option worth exploring since subsequent ROTH IRA distributions would be tax-free and would not be subject to the RMD rules.

### **Suspends 60% AGI Limitation on Cash Distributions to Public Charities**

The CARES Act suspends the 60% adjusted gross income limitation in 2020 for charitable cash contributions, but only contributions made to public charities, not to private foundations or donor advised funds. In addition, non-itemizers are now permitted to deduct, as an above the line deduction, up to \$300 of charitable cash contributions in 2020.

If you have any questions about this Alert or any other matter, please do not hesitate to contact us.

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# CARES ACT ALERT