Helpful Provisions in the CARES Act Affecting Retirement Plans

Included in the Coronavirus Aid, Relief, and Economic Security Act (the "**CARES Act**"), which became law on March 27, 2020, are several important provisions dealing with the rules that will apply to distributions from IRAs and other retirement plans in 2020. The following is a brief summary of those provisions:

Waiver of 2020 RMDs

The CARES Act waives the obligation to take a required minimum distribution ("**RMD**") in 2020 from IRAs and certain defined contribution plans including 401(k) plans (individually, a "**Retirement Plan**" and collectively, "**Retirement Plans**"). So an individual who does not want to receive a distribution in 2020 from Retirement Plans may skip taking all or any portion of the RMD without being subject to any penalties. This waiver applies not only to a participant who was already in pay status or would have been in pay status beginning in 2020, but also to individuals who have inherited the Retirement Plans.

If a distribution was already taken in 2020 by the participant, and the participant wants to take advantage of the RMD waiver, the participant may roll that distribution back into a Retirement Plan within 60 days, subject to meeting certain other requirements (including a limit of one such rollover in any 12-month period). An individual who took a distribution from an inherited Retirement Plan will not qualify for this special relief.

Please note that if the RMD is typically used as the source for income tax withholding on other income, and a decision is made not to take an RMD in 2020, then a different arrangement will be needed for 2020, such as payment of estimated taxes.

Early Distributions Without Penalty

For individuals who are not in pay status, the CARES Act permits distributions in 2020 up to $100,000 in the aggregate from Retirement Plans to be taken without giving rise to the 10% early distribution penalty and without being subject to the 20% federal income tax withholding requirement if the distribution is a coronavirus distribution. As a general rule, a coronavirus distribution is a distribution to an individual (i) who is diagnosed with COVID-19, (ii) whose spouse is diagnosed with COVID-19, or (iii) who experiences adverse financial consequences as a result of being quarantined, furloughed, terminated from employment or suffering a reduc-

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tion in hours, or being unable to work due to lack of child care due to the virus, closing or reducing hours of a business owned or operated by the individual due to the virus, or other factors determined by regulations.

An individual who takes a coronavirus distribution will be permitted to recontribute an equal amount to a Retirement Plan during the three-year period beginning on the day after the distribution is made, in which case the recontribution will be treated as a rollover, and the original coronavirus distribution will not be taxable. The taxable income from a coronavirus distribution may either be reported ratably over a three-year period beginning with the year of the distribution or fully included in income in the year of the distribution.

Additional Loans

The CARES Act also permits qualified individuals to take larger loans from certain Retirement Plans up to $100,000 (increased from $50,000) and extends the time frame for repayment. Those loans must be taken between March 27, 2020 and September 23, 2020.

Plan Amendments

Retirement Plans will need to be amended to permit certain actions authorized by the CARES Act. As a general rule those amendments must be made on or before the last day of the first plan year beginning on or after January 1, 2022 (or such later date as prescribed in regulations).

If you would like to discuss how these rules affect your situation, please contact Susan M. Holzman at smh@olss.com or visit the OLSS website at www.olss.com to locate other members of the Tax/Trusts & Estates group.