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Legislative Update Webinar

Thursday, April 30 | 3:00-4:00 p.m. ET

Thank you for joining! The presentation will begin momentarily.

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Legislative Update Webinar

MODERATOR
Matt Petersen
Executive Director
NAGDCA

SPEAKER
Megan Murphy
Associate
Morgan, Lewis & Bockius LLP

SPEAKER
Katie Moore
Associate VP, Client Services
Nationwide

SPEAKER
Melanie Walker
Senior VP, National Compliance Practice
Segal Consulting

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2020 NAGDCA Legislative Priorities

1 SUPPORT NATIONAL RETIREMENT SECURITY MONTH

To elevate the importance of personal retirement planning, we encourage the House and the Senate to introduce and pass a resolution to support October as National Retirement Security Month in 2020.

2 IMPROVE ROTH PLANS

- Allow Roth 457(b), 401(k), 401(a) and 403(b) plan participants to roll Roth IRA assets to their plans.
- Exempt designated Roth contributions from RMD rules, just as Roth IRA assets are exempt.

3 ENHANCE ADMINISTRATIVE EFFICIENCY AND PROMOTE SAVINGS

- Permitting non-spousal beneficiaries to roll assets to 457(b), 401(k), 401(a) and 403(b) plans.
- Eliminating the "first day of the month" requirement in 457(b) plans so participants can more easily change contribution amounts.

4 ENHANCE INVESTMENT OPTIONS FOR 403(b) INVESTORS

Permit Collective Investment Trusts (CIT's) and separate accounts as investment vehicles in 403(b) plans and deemed IRAs as they are in other governmental plans.

5 ENHANCE DISTRIBUTION CHOICE

Allow Qualifying Charitable Distributions (QCDs) from 457(b), 401(a), 401(k) and 403(b) plans, as they are from IRAs.

6 PRESERVE IMPORTANT UNIQUE PLAN FEATURES

NAGDCA is opposed to "Rothification" (requiring all or part of retirement plan contributions be made as Roth contributions), "plan consolidation" (the creation of a single new section of the IRS code, collapsing all defined contribution retirement plans into one), or any other plans that would eliminate current plan flexibility.

Accordingly, we oppose eliminating or reducing the special catch up provisions currently available in 457(b) plans which allow employees who are closer to retirement to save more.

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Priority 2 – Both provisions are in the 2019 Portman-Cardin bill, S.1431, (116).
Priority 3 – Both provisions are in the 2019 Portman-Cardin bill, S. 1431 (116) and in the 2017 Neal bill, H.R.4524 (115).
Priority 4 – This provision is in the 2019 Portman-Cardin bill, S. 1431 and in the 2020 Panetta bill, H.R. 6257 (116).
Priority 5 – This provision is in the 2019 Portman-Cardin bill, S.1431 (116).

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CARES & SECURE Acts

Megan Murphy
Associate
Morgan, Lewis & Bockius LLP

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CARES Act Highlights

Coronavirus-Related Distributions

- Optional provision; plans (aggregated by employer) may permit up to $100,000
- Qualified retirement plans, 403(b) plans, IRAs or governmental 457(b) plans
- Available only between January 1, 2020 and December 31, 2020
- Exempt from:
  - 10% early-distribution penalty
  - mandatory 20% withholding (still subject to 10% withholding or other withholding elected by participant)
- Income from the distributions will be subject to federal income tax ratably over three years (unless participant elects otherwise)
- Repayment/rollover right during the three-year period beginning the day after the distribution date
- A "coronavirus-related distribution" is a distribution to an individual:
  1) who is diagnosed, or whose spouse or dependent is diagnosed, with SARS-CoV-2 or COVID-19 using a CDC-approved test; or
  2) who experiences adverse financial consequences because of an inability to work due to quarantine, furlough, layoff, reduced hours, loss of childcare, or the closing or reduction of hours of a business owned or operated by the individual because of SARS-CoV-2 or COVID-19
- Plan administrators can rely on an individual's certification
- Restriction on in-service distributions for money purchase pension plans remains (age 62, or age 59 ½ post-2019)
- Plan amendment for governmental plans due by the end of the first plan year beginning on or after January 1, 2024 (December 31, 2024 for calendar year plans)

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CARES Act Highlights

Loan Limit Expansion and Repayment Holiday

- Coronavirus-related plan loan limit increase from:
  - current limit of the lesser of $50,000 and 50% of the vested account balance
  - to the lesser of $100,000 or 100% of the vested account balance for qualified individuals who meet the requirements to receive a coronavirus-related distribution under Section 2202(a) of the CARES Act
  - Increase is effective for loans made within 180 days following the passage of the CARES Act (i.e., by September 22, 2020)
- Due date for any plan loan repayments otherwise due between the date of enactment and December 31, 2020
  - Extended for qualified individuals (i.e., coronavirus-related distribution eligible) by one year (with interest), and subsequent loan repayments may be "appropriately adjusted" to reflect the delay
- Plan amendment for governmental plans due by the end of the first plan year beginning on or after January 1, 2024 (December 31, 2024 for calendar year plans)

2020 RMD Waiver for Defined Contribution Plans and IRAs

- Allows qualified defined contribution plans, 403(b) plans, IRAs or governmental 457(b) plans to postpone required minimum distributions (RMDs) by one year
- Applies to:
  - RMDs for 2019 that had not been made as of January 1, 2019
  - RMDs/required beginning dates that arise in 2020
- Similar to 2009 RMD waiver provided by WRERA, which the IRS clarified as optional in Notice 2009-82*
- Plan amendment for governmental plans due by the end of the first plan year beginning on or after January 1, 2024 (December 31, 2024 for calendar year plans)

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SECURE Act Highlights

RMD Increase to Age 72

- Previously, qualified plan participants were generally required to begin receiving distributions by April 1 following the later of the year in which the participant attains age 70½ or terminates employment
- SECURE extends age 70½ to age 72
- Plan rules will need to reflect the new age. Plans can require earlier distributions (e.g. at normal retirement age) if desired, but the latest is now April 1 in the year following the year in which a participant attains age 72
- Effective for any participant reaching age 70½ after December 31, 2019

Post-death "Stretch" Distributions

- Previously, a plan could allow a designated beneficiary to "stretch" distributions from a plan over the beneficiary's remaining life expectancy
- SECURE Act caps the time permitted to exhaust inherited plan or IRA assets at 10 years (for designated beneficiaries) and 5 years (for nondesignated beneficiaries)
- This new cap does not apply to certain "eligible designated beneficiary," including a surviving spouse, a minor child, a disabled person, a chronically ill person, or any person not more than 10 years younger than the employee.
- These new rules are generally effective with respect to participants who die after December 31, 2019

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SECURE Act Highlights

Childbirth or Adoption Distributions

- Effective for distributions after December 31, 2019, defined contribution plans can permit penalty-free distributions of up to $5,000 for expenses related to the birth or adoption of a child
- These distributions can later be repaid to a qualified retirement plan

In-Service Distributions 457(b) Plans and Pension Plans (MPP Plans)

- In the Bipartisan American Miners Act of 2019, which was part of the Further Consolidated Appropriations Act, 2020, along with the SECURE Act
- In-service distributions are permitted at age 59 ½ for governmental 457(b) plans and 401(a) defined benefit plans and money purchase pension plans
- Absent any additional guidance, this amendment will need to be adopted by the end of the plan year in which it is implemented

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Responding & Supporting with Extraordinary Care

Katie Moore

Associate Vice President

Nationwide Retirement Plans Operations

PNM-15679AO (04/20) For Plan Sponsors Use Only

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Operationalizing CARES Act

CRDs

Tax-favored Coronavirus-Related Distributions (CRDs) up to $100,000 until December 31, 2020

- Fee waiver
- Self-certification form

Loans

Expanded access to loans for 180 days after enactment of the law (September 23, 2020)

- Waiver of loan repayments

RMDs

Waiver of 2020 Required Minimum Distributions

- Universal waiver
- Continuance of regular distributions

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Operationalizing CARES – Sponsor & Participant Insights

- Sponsor adoption CRD, loans
- Provider Transitions
- Contributions
- Fund Changes or Mapping
- Communication

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GASB Exposure Draft

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GASB Exposure Draft

- What is GASB?
  - The Governmental Accounting Standards Board establishes standards for state & local governmental accounting and financial reporting
  - For DB plans, these standards ensure that certain valuations are made and specific information is reported (e.g., on a CAFR)
- How does GASB affect public sector DC plans?
  - Until recently no (real) GASB rules applied to DC plans
  - January 2017 - GASB issued Statement No. 84 *Fiduciary Activities* which may apply to public DC plans that are defined as pension plans (eff. FY after 12/15/2018)
  - June 2019 - GASB issued Exposure Draft on 457 plans that meet the definition of a pension plan

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GASB Exposure Draft

- Key requirements for 457 Plans
  - All governmental 457(b) plans must report investment valuation of plan based on Statement No. 67 standards
  - 457 plans that meet the definition of a pension plan is subject to all accounting and financial reporting requirements of a pension plan
    - Employer contributions during active service means it is a pension plan
    - Statement No. 67 reporting requirements apply to pension plans
- NAGDCA's response
  - Board letter to GASB September 2019 – key points:
    - There are no employer contributions to a 457(b) plan
    - No risk to employer for investment gains or losses
    - Need guidance on how to apply pension reporting requirements to DC plan
  - Call with GASB October 2019

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Exposure Draft

- Revised ED March 2020
  - Clarified GASB will not apply “financially accountable” or “financial burden” criteria in Statement No. 84 to DC plans
  - 457(b) plan with employer contributions meets definition of pension plan
  - Removed specific examples on different scenarios of employer contributions
- NAGDCA’s response
  - Board letter to GASB April 2020 – reiterated key points:
    - Our members need a clear definition of pension plan
    - If prior employer contributions but none currently, not a pension plan
    - Need specific guidance on applicable accounting and financial reporting requirements
- What does this mean for your 457(b) plan?
  - Effective FY after 6/15/2021

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Questions?

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