Strafford

Presenting a live 90-minute webinar with interactive Q&A

Retirement Plan Distributions Under the CARES Act: New IRS Guidance and State Law Considerations

WEDNESDAY, SEPTEMBER 9, 2020

1pm Eastern | 12pm Central | 11am Mountain | 10am Pacific

Today's faculty features:

David C. Olstein, Partner, **Stroock & Stroock & Lavan**, New York

J. Rose Zaklad, Principal, **Groom Law Group**, Washington, D.C.

The audio portion of the conference may be accessed via the telephone or by using your computer's speakers. Please refer to the instructions emailed to registrants for additional information. If you have any questions, please contact **Customer Service at 1-800-926-7926 ext. 1**.

Tips for Optimal Quality

FOR LIVE EVENT ONLY

Sound Quality

If you are listening via your computer speakers, please note that the quality of your sound will vary depending on the speed and quality of your internet connection.

If the sound quality is not satisfactory, you may listen via the phone: dial **1-877-447-0294** and enter your **Conference ID and PIN** when prompted. Otherwise, please **send us a chat** or e-mail **sound@straffordpub.com** immediately so we can address the problem.

If you dialed in and have any difficulties during the call, press *0 for assistance.

Viewing Quality

To maximize your screen, press the 'Full Screen' symbol located on the bottom right of the slides. To exit full screen, press the Esc button.

Continuing Education Credits

FOR LIVE EVENT ONLY

In order for us to process your continuing education credit, you must confirm your participation in this webinar by completing and submitting the Attendance Affirmation/Evaluation after the webinar.

A link to the Attendance Affirmation/Evaluation will be in the thank you email that you will receive immediately following the program.

For additional information about continuing education, call us at 1-800-926-7926 ext. 2.

Program Materials

FOR LIVE EVENT ONLY

If you have not printed the conference materials for this program, please complete the following steps:

- Click on the link to the PDF of the slides for today's program, which is located to the right of the slides, just above the Q&A box.
- The PDF will open a separate tab/window. Print the slides by clicking on the printer icon.

September 9, 2020

CARES Act Retirement Plan Distributions: New IRS Guidance and State Law Considerations

David C. Olstein, Stroock & Stroock & Lavan LLP

J. Rose Zaklad, Groom Law Group

GROOM LAW GROUP

STROOCK

What we'll cover

- CARES Act Distributions
- CARES Act Loans
- CARES Act 2020 RMD Waivers
- State Law Considerations
- Best Practices for Effective Administration

Background

- CARES Act passed on March 27, 2020, provides retirement plan and IRA relief
  - Coronavirus-related distributions (CRDs)
  - Coronavirus-related loans (CRLs) and suspension of existing loans for qualified individuals
  - Waiver of 2020 required minimum distributions (RMDs) for defined contribution plans/IRAs
- Notices 2020-50 & 2020-51
  - largely track prior guidance, with additional relief on key issues

CARES Act Distributions

Permitted Early Withdrawals

- Defined contribution plans are permitted, but not required, to allow participants to receive hardship distributions due to an immediate and heavy financial need
- Hardship distributions are limited to the amount necessary to satisfy the participant's financial need
- Hardship distributions are generally includible in income and may also be subject to the 10% additional tax on early withdrawals
- Hardship distributions cannot be rolled over or repaid

Tax on Early Withdrawals - Exemptions

- The following distributions are exempt from the 10% additional tax on early distributions:
  - distributions after the participant/IRA owner reaches age 59 ½
  - distributions after the death or disability of the participant/IRA owner
  - distributions as part of a series of substantially equal periodic payments
  - eligible distributions contributed to another plan or IRA within 60 days
  - distributions following a separation of service during or after the year the participant reaches age 55
  - distributions used to pay for certain educational and medical expenses

CARES Act Distribution Provisions

- Permits withdrawals (even if still working) of up to $100,000 from vested account
  - For “Qualified Individuals”
  - Available before December 31, 2020
- No 10% early withdrawal tax
- Not subject to 20% withholding and rollover notice rules
- Special taxation (at participant’s option) – tax can be spread equally over 3 years
- 3-year recontribution right to plan/IRA

Qualified Individual

- "Qualified Individual" for purposes of CRDs and CRLs:
  - Participant, spouse or dependent diagnosed with COVID-19
  - Participant, spouse, or member of household experiences adverse financial consequences as a result of the following due to COVID-19:
    - quarantine, furlough, layoff, reduced work hours, inability to work due to lack of child care, or closing or reduced hours of business owned or operated by the individual
    - reduced pay (including self-employment income), rescinded job offer, or delayed start date
  - Member of household = one who shares principal residence

Qualified Individual

- Plan administrator can rely on individual's self-certification that they are a Qualified Individual, absent actual knowledge to the contrary
- No duty to inquire
- Sample self-certification is provided in Notice

Coronavirus-Related Distributions

Additional Guidance from Notice 2020-50

- CRDs include:
  - 2020 waived RMDs, loan offsets, money purchase or pension plan distributions (if there is a distributable event)
- But not:
  - Corrective distributions, deemed distributions of loans, dividends on employer securities, EACA withdrawals
- Distribution not tied to participant's needs

Coronavirus-Related Distributions

Guidance for Employers

- Plans need not offer a direct rollover, provide a 402(f) notice, or withhold at 20% (but 10% voluntary withholding applies)
- Plans can choose whether to offer CRDs, CRLs or loan suspensions
- Plans must report CRDs on 1099-R, even if CRD is recontributed in the same year
- For 1099-R, payor should use distribution code 2 (early distribution, exception applies) or code 1 (early distribution no exception applies) in box 7

Coronavirus-Related Distributions

Guidance for Qualified Individuals

- Qualified Individual (QI) can treat an eligible distribution as a CRD, even if not treated as a CRD under a plan
- QI can designate a distribution as a CRD on federal income tax return, but only up to $100k aggregate limit
- QI can include CRD in income ratably over a 3-year period, or can elect to include entire CRD amount in year of distribution
  - election must be made no later than filing of QI's tax return (including extensions) for the year of distribution
  - special rule for death

Example: Distributions Exceeding $100k

- QI receives a distribution of $50,000 in August of 2020 and a distribution of $75,000 in September of 2020
- Both distributions satisfy the CRD definition
- QI can only treat $100,000 of the distributions as CRDs on 2020 federal income tax return
- The remaining $25,000 must be included on the QI's 2020 federal income tax return, is not eligible for recontribution, and, unless an exception applies, is subject to the additional 10% tax on early withdrawals

Example: Distributions Below $100k

- QI receives a distribution of $35,000 from 401(k) plan on December 1, 2020
- QI also receives a $15,000 distribution from IRA on December 1, 2020
- QI is permitted to treat both distributions as CRDs on 2020 federal income tax return

Coronavirus-Related Distributions

Recontributions

- Recontribution must be made within 3 years beginning on the day after the distribution
- Amount must be eligible for tax-free rollover (e.g., no annuity payments)
- Not subject to one-rollover-per-year limitation
- Hardships that qualify as CRDs can be recontributed
- IRS "anticipates" that eligible retirement plans will accept recontributions

Example: 3-Year Ratable Income

- *Example:*
  - QI receives a $30,000 distribution from IRA on October 1, 2020
  - QI elects to treat the distribution as a CRD and use the 3-year ratable income inclusion method
  - QI should include $10,000 in income with respect to the CRD on 2020 federal income tax return, $10,000 in income with respect to the CRD on 2021 return and $10,000 in income with respect to the CRD on 2022 return

Coronavirus-Related Distributions

Tax Treatment of Recontributions Under 1-Year Income Inclusion Method

- QI must report the recontribution amount on Form 8915-E, filed with federal income tax return
- Recontribution reduces the amount of the CRD included in gross income for the year of the distribution
- If recontribution occurs after tax return is timely filed, QI must file an amended tax return and revised Form 8915-E for the year of the distribution

Example 1: 1-Year Income Inclusion Method

- QI receives a $45,000 distribution from 403(b) plan on November 1, 2020
- QI elects to treat the distribution as a CRD and receives no other CRD from any eligible retirement plan.
- QI recontributes $45,000 to an IRA on March 31, 2021, reports the recontribution on Form 8915-E and files the 2020 federal income tax return on April 10, 2021
- No portion of the $45,000 distribution is includible as income for the 2020 tax year.

Example 2: 1-Year Income Inclusion Method

- Same facts as Example 1, except that:
  - QI timely requests an extension of time to file 2020 federal income tax return
  - Q1 recontributes $45,000 to an IRA on August 2, 2021
  - Q1 files the 2020 return on August 10, 2020
- No portion of the $45,000 distribution is includible as income for the 2020 tax year because QI made the recontribution before timely filing 2020 return

Example 3: 1-Year Income Inclusion Method

- *Example 3:*
  - QI receives a $15,000 distribution from a governmental 457(b) plan on March 30, 2020
  - QI elects to treat the distribution as a CRD, elects out of the 3-year ratable income inclusion on Form 8915-E and includes the entire $15,000 in gross income for the 2020 taxable year
  - QI recontributes $15,000 to the 457(b) plan on December 31, 2022
  - QI will need to file an amended federal income tax return for the 2020 tax year

Coronavirus-Related Distributions

Tax Treatment of Recontributions Under 3-Year Method

- QI must report the recontribution amount on Form 8915-E, filed with federal income tax return
- If recontribution is made before federal return is timely filed, it reduces the ratable amount of the CRD included in gross income for that tax year
- If recontribution exceeds the amount to be included in gross income for the tax year, the excess amount may be carried back or forward (but must file amended tax return to carry back)

Example 1: 3-Year Income Inclusion Method

- QI receives a $75,000 distribution from 401(k) plan on December 1, 2020
- QI elects to treat the $75,000 distribution as a CRD and use the 3-year ratable income inclusion method
- QI recontributes $25,000 to the 401(k) plan on April 10, 2022, and makes no other recontribution in the 3-year period
- QI should include $25,000 in income with respect to the CRD on the 2020 federal income tax return, $0 in income with respect to the CRD on the 2021 return and $25,000 in income with respect to the CRD on the 2022 return

Example 2: 3-Year Income Inclusion Method

- Same facts as Example 1, except that QI recontributes $25,000 to 401(k) plan on August 10, 2022
- QI files the 2021 federal income tax return on April 15, 2022, and does not request an extension of time to file
- QI should include $25,000 in income with respect to the CRD on his 2020 federal income tax return, $25,000 in income with respect to the CRD on the 2021 return and $0 in income with respect to the CRD on the 2022 return

Example 3: 3-Year Income Inclusion Method

- QI receives a distribution of $90,000 from his IRA on November 15, 2020.
- Q1 elects to treat the distribution as a CRD and ratably include the distribution in income over a 3-year period
- Q1 includes $30,000 in income with respect to CRD on 2020 federal income tax return
- Q1 recontributes $40,000 to an IRA on November 10, 2021, and makes no other recontribution in the 3-year period

Example 3: 3-Year Income Inclusion Method

- QI has two options:
  - **Option 1:** Q1 may include $0 in income with respect to the distribution on 2021 federal income tax return, carry forward the excess recontribution of $10,000 to 2020 and include $20,000 in income on the 2022 return
  - **Option 2:** Q1 may include $0 in income with respect to the CRD on the 2021 federal income tax return, include $30,000 in income on 2022 federal income tax return, and file an amended 2020 return to reduce the amount included in income to $20,000 ($30,000 - $10,000 recontribution that is not offset on the 2021 or 2022 return)

Nonqualified Plan Relief

Nonqualified Deferred Compensation Plans

- CRD is deemed a hardship distribution for purposes of 409A rule that allows cancellation of a deferral election after a hardship distribution from a 401(k) plan
- Nonqualified plan may cancel or allow participant who receives a CRD to **cancel** deferral election
- The relief does not go as far as to allow a distribution from a nonqualified plan because of a CRD

CARES Act Loans

GROOM LAW GROUP

STROOCK

General Rules for Participant Loans

- Retirement plans, including 401(k), 403(b) and 457(b) plans, may include provisions for participant loans
- IRAs and IRA-based plans cannot offer participant loans
- The maximum amount a plan may allow a participant to borrow is ordinarily the lesser of 50% of vested account balance or $50,000
- Loans are not dependent upon hardship

Repayment of Participant Loans

- Loan proceeds are not taxed if the loan complies with Code requirements and the repayment schedule is followed
- Generally, the loan must be repaid within five years and payments must be made in substantially equal payments of principal and interest that are paid at least quarterly
- A loan default is generally treated as a taxable distribution from the plan of the entire outstanding balance of the loan
- A plan may provide for an offset of the unpaid plan loan against the participant's account balance

CARES Act Loan Provisions

- Increases loan limit to $100,000 aggregate (not to exceed 100% of vested account balance)
  - For Qualified Individuals
  - For loans made within 180 days of enactment (September 22, 2020)
- Permits a one-year suspension of loan repayments due between March 27 through December 31, 2020
  - For Qualified Individuals
  - The suspension period is disregarded for purposes of 5-year loan period (or home loan period)

Safe Harbor for Loan Suspension

- Safe harbor for loan suspension if:
  - Repayments are suspended for a period during March 27 – December 31, 2020,
  - Repayments resume as of January 2021,
  - Term may be extended up to one year from the original due date, and
  - Loan is re-amortized, with accrued interest, over the remaining extended loan term
- Other methods may be reasonable, if more complex
  - Example: re-amortization in April 2021, with payments restarting in January 2021

Example: Applying the Safe Harbor

- P has $40,000 account balance, and borrows $20,000 on April 1, 2020 ($368.33/month over 5 years)
- P makes repayments for 3 months through June 30, 2020
- Loan repayments are suspended from July 1, 2020 through December 31, 2020 (balance is $19,477 as of Jan. 1, 2021)
- Repayments resume on January 1, 2021, and monthly installments are reamortized to $343.27 so the loan can be repaid by March 31, 2026, which is the original repayment date plus 1 year

CARES Act 2020 RMD Waiver

Required Minimum Distributions

- Plan participants and traditional IRA owners are generally required to start taking distributions from their accounts for years beginning with the year they reach age 72 (up from 70 ½) or (for certain plan participants) retire, if later
- The RMD for any year is generally equal to the account balance as of the end of the immediately preceding calendar year divided by the distribution period set forth in the applicable IRS Uniform Lifetime Table
- RMDs are generally taxable to the extent they exceed basis and cannot be rolled over into another retirement account

Due Date for RMDs

- Participants and IRA owners are required to take their first RMD by April 1 of the year following the year they reach the starting age or, if applicable, retirement
- For subsequent years (including the year in which the first RMD is due), participants/IRA owners must withdraw their RMD by December 31
- If a participant/IRA owner fails to withdraw the full amount of the RMD by the deadline, the amount not withdrawn is subject to a 50% tax

RMDs After Death of Account Owner

- If plan participant/IRA owner dies before January 1, 2020, and RMDs have not yet begun, the account balance generally must be distributed within 5 years or over the life of the beneficiary
- If plan participant/IRA owner dies after December 31, 2019, account balance generally must be distributed within 10 years if the designated beneficiary is an individual other than a surviving spouse or other "eligible designated beneficiary"
  - 5-year rule applies if RMDs have not begun and account owner does not designate a beneficiary or designates a trust as beneficiary

CARES Act RMD Provisions

- For defined contribution plans and IRAs:
  - waives any RMDs for 2020
  - waives any RMDs with a due date of April 1, 2020, that were not paid in 2019
  - provides for determination of five-year RMD pay-out period without regard to 2020
  - treats distributions made in 2020 that would have been RMDs but for the RMD waiver as eligible rollover distributions

IRS Notice 2020-51

SECURE Act transition guidance for payors and plan administrators

- A distribution from a plan made during 2020 to a participant who will attain age 70 ½ in 2020 that would have been a RMD but for the increase in the RMD starting age to 72 is not required to be treated as an eligible rollover distribution for purposes of Code Sections 401(a)(3), 402(f) and 3405

IRS Notice 2020-51

Rollover guidance for defined contribution plan participants

- The following distributions may be rolled over, provided that 402(c) requirements are other satisfied:
  - Distributions paid in 2020 (or paid in 2021 for the 2020 RMDs in the case of a participant with a required beginning date of April 1, 2021), if the payments equal the amounts that would have been RMDs in 2020 (or for 2020) but for the RMD waiver, or (with certain requirements) are part of a series of substantially equal periodic payments
  - Distributions paid in 2021 to a participant with a required beginning date of April 1, 2021, that would have been an RMDs for 2021 but for the RMD waiver

IRS Notice 2020-51

- *Extension of 60-day deadline for rollovers*
  - Plan participants have until August 31, 2020, to roll over distributions received in 2020 that would have been RMDs but for the SECURE Act change to the required beginning date or the CARES Act RMD waiver
  - IRA owners and beneficiaries have until August 31, 2020, to roll over (or repay to the distributing IRA) distributions received in 2020 that would have been RMDs but for the SECURE Act change to the required beginning date or the CARES Act RMD waiver
    - Repayments are treated as rollover contributions, but are not subject to the restrictions on the frequency of IRA rollovers or restrictions on rollovers for nonspousal beneficiaries

IRS Notice 2020-51

- *Additional guidance*
  - an IRA does not need to be amended to reflect the 2020 RMD waiver (Q&A-1)
  - the 2020 RMD waiver does not affect an individual's required beginning date (Q&A-4)
  - an IRA, trustee or custodian must notify an IRA owner that no RMD is due for 2020 (Q&A-11)
  - the 2020 RMD waiver does not apply to defined benefit plans (Q&A-12)

IRS Notice 2020-51

- *Additional guidance*
  - distributions from a plan may be rolled over back into the same plan, provided the plan permits rollovers and the rollover otherwise satisfies 402(c) requirements (Q&A-8)
  - 2020 RMDs paid from a plan in 2020 are not subject to the mandatory 20% withholding rate for eligible rollover distributions (Q&A-9)
  - deadlines for selecting the RMD pay-out period following a plan participant's death and making direct rollovers to non-spouse designated beneficiaries are extended (Q&A-2, Q&A-3)
  - various other deadlines are not extended (Q&A-6)

IRS Notice 2020-51

- *Sample plan amendment*
  - plan sponsors have until the last day of the 2022 plan year (2024 plan year for governmental plans) for implementing the 2020 RMD waiver
  - the Notice provides a sample amendment that provides participants and beneficiaries a choice between receiving and not receiving 2020 RMDs and provides sponsors with three options with respect to the availability of direct rollover choices
  - The sample amendment is drafted for pre-approved plans, but can be modified for individually designed plans
  - Adoption of the amendment will not result in the loss of reliance on a favorable opinion, advisory or determination letter

State Law Considerations

State Tax Considerations

- A CARES Act distribution may subject an IRA owner or plan participant to state taxes depending on their state of residency
- Some states do not levy a personal income tax
- Many states with personal income taxes exempt or exclude retirement income to varying degrees
- Some states adopt the Internal Revenue Code on a rolling basis and require legislation to decouple from new amendments
- Other states adopt the Internal Revenue Code as of a specific date and require legislation to adopt new amendments

States That Don't Tax Retirement Income

- Seven states do not have a personal income tax (AK, FL, NV, SD, TX, WA, WY)
- New Hampshire and Tennessee only impose a personal income tax on interest and dividends
- Illinois, Mississippi and Pennsylvania exempt retirement income from qualified plans and IRAs from their income tax, but only Illinois exempts early distributions

Rolling Conformity States

- Ten rolling conformity states (AL, DE, KS, LA, MT, NE, ND, OK, RI, UT) and the District of Columbia have not decoupled from any provisions of the CARES Act
- Six rolling conformity states (CO, CT, IA, NM) have decoupled from certain CARES Act provisions, but not those relating to plan/IRA distributions and loans
- Maryland temporarily decouples from Code amendments determined to have a significant impact on state tax revenue
- Oregon's rolling conformity is limited to Code changes relating to the definition of taxable income

Static Conformity States

- Four static conformity states (GA, HA, NC, OH) have enacted legislation establishing conformity dates on or after the date the CARES Act was enacted
- Thirteen static conformity states (AZ, CA, ID, IN, KY, ME, MA, NY, SC, VT, VA, WV, WI) have conformity dates prior to the date the CARES Act was enacted
- Michigan is considered a static conformity state, but allows taxpayers to elect rolling conformity

Static Conformity States - California

- California adopts the Internal Revenue Code as in effect on January 1, 2015.
- The California Franchise Tax Board has issued guidance confirming that the CARES Act exemption from the Internal Revenue Code's additional 10% tax on early withdrawals also applies to California's 2.5% additional tax on early withdrawals
- The California general assembly has passed legislation that would conform the California tax code to CARES Act provisions relating to retirement plan loans

Static Conformity States - Massachusetts

- For personal income tax purposes, Massachusetts follows the Internal Revenue Code as in effect on January 1, 2005
- The Massachusetts Department of Revenue has issued guidance confirming that:
  - CARES Act distributions "will be included in Massachusetts gross income at the same time and in the same amounts as they are included in federal gross income"
  - A loan from a qualified plan "will be treated as a distribution to the extent it is so treated for federal purposes"
  - CARES Act 2020 RMD waiver and relief from the additional tax on early withdrawals have "no practical Massachusetts tax impact"

Static Conformity States - Wisconsin

- For tax years beginning after December 31, 2017, Wisconsin generally adopts the Internal Revenue Code as in effect on December 31, 2017
- On April 15, 2020, Wisconsin enacted legislation adopting specific provisions of the CARES Act, including the provisions relating to plan/IRA distributions and loans and the 2020 RMD waiver

Non-Conforming States

- Four states (AR, MS, NJ and PA) either do not follow the Internal Revenue Code or only follow select provisions
- These states have not issued guidance addressing whether they will follow any of the CARES Act changes to federal tax law
  - Arkansas exempts up to $6000 of income from retirement plans, which exemption also applies to IRA distributions to taxpayers 59 ½ or older
  - Mississippi and Pennsylvania generally exempt retirement income from taxation, but not early distributions
  - New Jersey allows taxpayers age 62 or older with $100,000 or less in state income to exclude up to $60,000 of IRA or retirement plan income

Impact on Unemployment Benefits

- In COVID-19 FAQs published on April 28, 2020, the DOL highlighted the potential impact of receiving pre-retirement distributions of unemployment compensation:
  - "Because a pre-retirement distribution may be considered 'income,' it could affect your ability to receive unemployment compensation."
  - "Each state sets its own unemployment insurance benefits eligibility guidelines; therefore, you should review your state's latest updates on Unemployment Insurance changes related to COVID-19 before you act."

Unemployment Compensation Program

- The joint federal-state Unemployment Compensation (UC) program provides temporary wage replacement income to involuntarily unemployed workers
- Federal laws and regulations establishes broad guidelines on UC benefit coverage, eligibility, and benefit determination
- Each state determines specific requirements for UC benefits and administers the program subject to DOL oversight

Eligibility for Unemployment Compensation

- UC benefits generally are not available to individuals who are self-employed, unable to work, or do not have a recent earnings history
- Eligibility for UC benefits is based on earning qualified wages in covered work over a "base period" prior to unemployment
  - The base period is typically the first four of the last five completed calendar quarters preceding the filing of the claim
- To receive UC benefits, must meet their state's earnings requirements and be able, available and actively seeking work

Retirement Income Offset Requirement

- The Federal Unemployment Tax Act (FUTA) requires states to reduce UC benefits payable to an individual for any week in which the individual receives "pension, retirement or retired pay, annuity, or any other similar periodic payment" based on previous work of the individual, provided that:
  - the payment is "reasonably attributable to such week";
  - the payment is made under a plan "maintained (or contributed to) by a base period employer or chargeable employer"; and
  - services performed by the individual after the beginning of the base period (or compensation received) affect eligibility for, or increase the amount of, such payment

Retirement Income Offset Requirement

- FUTA authorizes states to limit the amount of the UC benefit reduction "to take into account contributions made by the individual for the . . . payment"
  - DOL guidance provides that a state may disregard up to 100% of a retirement payment as long as the individual contributed "some amount" to the retirement plan, "regardless of the relative proportions of employee and employer contributions"
- FUTA further provides that UC benefits may not be reduced on account of any pension, retirement or similar payment "not includible in the gross income of the individual . . . because it was part of a rollover distribution"

State Offset Requirements

- The vast majority of states reduce the offset amount (i.e., less than dollar-for-dollar) where the individual has contributed to the retirement plan
  - Some states (e.g., IA, IN) only offset income from plans that are 100% employer funded
  - At least ten states do not reduce the offset amount for income from contributory plans (CO, LA, MS, MN MO, OK, NC, WV, UT, VA)
- Most states do not offset income from pensions not affected by base period work, but a significant minority do

State Offset Requirements – New York

- UC benefits are reduced by pension, retirement or similar periodic payments based on previous work, provided that:
  - such payment is made under a plan maintained by or contributed to by a base period employer
  - the claimant's employment with, or remuneration from, such employer after the beginning of the base period affected his eligibility for, or increased the amount of, such payment
- UC benefits are not reduced if the claimant was the sole contributor to the plan

State Offset Requirements – California

- UC benefits are reduced by pension, retirement or similar periodic payments based on previous work, provided that:
  - such payment is made under a plan maintained or contributed to by a base period employer;
  - the claimant's work after the beginning of the base period affected eligibility to receive the pension or increased the size of the award; and
  - the claimant made no payment into the pension fund

Plan Administration Considerations

Plan Amendment Timing

- Plans have until the last day of the 2022 plan year (2024 for governmental plans) to adopt plan amendments
- Notice 2020-51 provides a sample plan amendment for the 2020 RMD waiver, which can be modified for individually-designed plans
- Use of sample amendment will not result in the loss of reliance on a favorable opinion, advisory or determination letter

Best Practices for Plan Administration

- Coordinate with recordkeeper to ensure that participant communications, plan operations, and plan amendments are consistent
- Work with recordkeeper on reporting of CRDs
- Encourage participants to consult with personal tax advisor on tax treatment of CRDs and recontributions
- Develop process for administering recontributions to plan
- Consult with recordkeeper on administration of RMD waiver

Questions?

Please free to contact us with your questions.

David Olstein
dolstein@stroock.com

Rosie Zaklad
rzaklad@groom.com