Bowles Rice

Penalty-Free Plan Withdrawals Allowed for Expenses Related to the Birth or Adoption of a Child

Generally, a distribution from a qualified retirement plan is included in income for the tax year of distribution. Further, unless an exception applies, a distribution before the age of 59½ is subject to a 10% additional tax (an early withdrawal penalty) on the amount includible in income. Exceptions to the early withdrawal penalty rules include distributions made in cases of financial hardship or unforeseeable emergencies. Also, a distribution from an eligible retirement plan may be rolled over to another eligible retirement plan within 60 days, and the amount rolled over is generally not includible in income.

For distributions made after Dec. 31, 2019, the SECURE Act provides for penalty-free withdrawals from applicable eligible retirement plans for a "qualified birth or adoption distribution."

A "qualified birth or adoption distribution" is a distribution from an applicable eligible retirement plan to an individual that is made during the one-year period beginning on the date on which a child of the individual is born or on which the legal adoption by the individual of an "eligible adoptee" is finalized.

An "eligible adoptee" means any individual (other than a child of the taxpayer's spouse) who has not attained age 18 or is physically or mentally incapable of self-support.

The maximum aggregate amount of a qualified birth or adoption distribution is $5,000, applied on an individual basis with respect to any birth or adoption. The maximum aggregate amount applies on an individual basis. Therefore, for a married couple, each spouse separately may receive a maximum aggregate amount of $5,000 of qualified birth or adoption distributions (with respect to a birth or adoption) from applicable eligible retirement plans in which each spouse participates or holds accounts.

An "applicable eligible retirement plan" is:

. . . an individual retirement account under Code Sec. 408(a);
. . . an individual retirement annuity (other than an endowment contract) under Code Sec. 408(b);
. . . a qualified trust described in Code Sec. 401(a);
. . . a qualified annuity plan under Code Sec. 403(a);

. . . an annuity contract described in Code Sec. 403(b); and
. . . a governmental eligible deferred compensation plan under Code Sec. 457(e)(1)(A) , if it meets the conditions described above.

For these purposes, an applicable eligible retirement plan does not include a defined benefit plan.

Generally, an individual who receives a qualified birth or adoption distribution may recontribute that amount, by making one or more contributions that do not exceed that amount, to an applicable eligible retirement plan for which that individual is a beneficiary, and to which a rollover contribution is allowable.

Questions?

If you have any questions, please contact **David DeJarnett**, leader of the Bowles Rice Tax Team, at **(304) 264-4232**.