

IRS Finalizes Hardship Distribution Regulations For Qualified Retirement Plans

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Earlier this year, we summarized proposed Treasury regulations and the Bipartisan Budget Act of 2018, which made changes to the rules governing hardship distributions from 401(k) and 403(b) plans.

Those rules recently were finalized without significant changes. As finalized, the key changes to the hardship distribution regulations include: (1) elimination of the six-month suspension of contributions following hardship distributions made on or after January 1, 2020; (2) plans are now permitted to eliminate any requirement that participants obtain all available plan loans prior to receiving a hardship distribution; (3) expansion of the sources of plan account assets available for hardship distribution; and (4) plans are now permitted to allow for a distribution in the case of hardship related to a federally declared disaster.

Plan amendments will be necessary to reflect the changes required under the final regulations. Whether an amendment is made due to an optional or required change, the timing of amendments will depend on whether the plan is an individually designed or pre-approved 401(k) plan or a 403(b) plan.

Generally, amendments will need to be adopted to reflect these new rules by December 31, 2021, but operational changes will be needed to comply with the new regulations by Jan. 1, 2020. The amendment deadline for 403(b) plans is March 30, 2020, but the Treasury and IRS are considering extending that deadline for the adoption of amendments to conform to the

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final hardship regulations.

Plan sponsors should review their hardship distribution provisions to determine whether any changes are necessary or desired, and if so, adopt such amendments prior to the applicable deadlines. Plan sponsors that do not offer hardship distribution may want to reconsider in light of the changes made by these new rules.