

Hardship Withdrawal and Tax Filing Relief Due to Recent Disaster Declarations

September 7, 2021

In 2019, the IRS updated the safe harbor rules for hardship withdrawals from a retirement plan to permit such withdrawals for expenses and losses incurred by a participant due to a natural disaster declared by the Federal Emergency Management Agency ("**FEMA**"), provided the participant's principal residence or principal place of employment at the time of the disaster was located in an area designated by FEMA for individual assistance related to that disaster.

FEMA has issued a series of disaster declarations as a result of recent catastrophes across the country, including Hurricane Ida, the wildfires in California, and the severe storms and flooding in Tennessee. A list of counties designated by FEMA for individual assistance associated with these incidents can be found on FEMA's website [here](#). These disaster declarations mean that affected participants may be eligible for hardship distributions from their 401(k) plan accounts. Plan sponsors with participants who live or work in the affected counties should review their 401(k) plan's hardship distribution provisions to ensure they contain either the updated safe harbor provisions specifically allowing hardship distributions for federally declared disasters or catch-all language permitting distributions on any permissible safe harbor hardship distribution event as determined by the Commissioner of Internal Revenue.

In addition, the IRS has announced tax relief for certain victims of Hurricane Ida, the wildfires in California, and the severe storms and flooding in Tennessee, which postpones certain tax-filing and payment deadlines for qualifying individuals and businesses. The deadlines are generally postponed until (i) January 3, 2022 for victims of Hurricane Ida and victims of the severe storms and flooding in Tennessee, and (ii) November 15, 2021 for victims of the wildfires in California. Such relief applies to the filing of Form 5500 returns which are required to be filed (i) on or after August 26, 2021 and before January 3, 2022 for victims of Hurricane Ida, (ii) on or after July 14, 2021 and before November 15, 2021 for victims of the wildfires in California, and (iii) on or after August 21, 2021 and before January 3, 2022 for victims of the severe storms and flooding in Tennessee.

The IRS' announcement relating to victims of Hurricane Ida is available [here](#).

The IRS' announcement relating to victims of the severe storms and flooding in Tennessee is available [here](#).

The IRS' announcement relating to victims of the wildfires in California is available [here](#).