Hardship Withdrawals

October 16, 2018

The Bipartisan Budget Act of 2018 (the ?ÃÂ£***Budget Act***?ÃÂ¥) contains changes that will impact 401(k) plans that offer hardship withdrawals. Effective January 1, 2019, the following key changes to the Internal Revenue Code?ÃÃs hardship withdrawal rules become effective:

- Permissible Contribution Sources Expanded: The contribution sources from which hardship withdrawals are permitted have been expanded to include qualified nonelective contributions (?ÃÂ£***QNECs***?ÃÂ¥), qualified matching contributions (?ÃÂ£***QMACs***?ÃÂ¥), 401(k) safe harbor plan contributions, and earnings on such QNECs, QMACs, and employee deferrals (including post-1988 earnings on elective deferrals).
- Loan Exhaustion Requirement Eliminated: Participants may take a hardship withdrawal without first having to take out all nontaxable loans available under the plan.
- Six Month Suspension Requirement Eliminated: Plan administrators are no longer required to suspend a participant?ÃÃs elective deferrals for six months following a hardship withdrawal.

Although the IRS has not yet issued explanatory guidance regarding these changes, plan sponsors need to decide now how the plan?ÃÃs administration of hardship withdrawals will change because starting January 1, 2019, the plan will need to be administered in accordance with the new hardship withdrawal rules.

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