IRS Announces Final Regulations Implementing New Hardship Distribution Requirements

September 25, 2019

The IRS recently published final regulations addressing changes enacted by the Tax Cuts and Jobs Act of 2017, the Bipartisan Budget Act of 2018, and other prior changes to the tax code. The final regulations do not contain any substantive differences to the proposed regulations issued by the IRS in November 2018. The new final regulations:

?ÃÃ³ Permit, but do not require, hardship distributions from a participant?ÃÃs elective contributions, QNECs, QMACs (including safe harbor matching contributions), and any earnings on those amounts, regardless of when they were contributed or earned.

?ÃÃ³ Prohibit plans from containing a requirement that a participant may not contribute to the plan for any period of time following a hardship distribution (in other words, eliminate the six-month suspension rule).

?ÃÃ³ Eliminate the requirement that a participant take out all available plan loans before receiving a hardship distribution (although plans may continue to contain such a requirement).

In addition, the final regulations modify the safe harbor list of expenses for which a hardship distribution may be taken by adding:

?ÃÃ³ The ?ÃÂ£primary beneficiary under the plan?ÃÂ¥ as an individual for whom qualifying medical, educational, and funeral expenses may be incurred; and

?ÃÃ³ Expenses incurred because of a federally declared disaster.

Plan sponsors are encouraged to work with their benefits counsel to determine if any plan amendments are necessary to implement these changes, and any such plan amendments must be adopted by January 1, 2020.

The final regulations are available here.

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