

IRS Announces Proposed Regulations Implementing New Hardship Distribution Requirements

November 16, 2018

The IRS recently published proposed 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. Specifically, the proposed regulations:

- Permit, but don't require, hardship distributions from a participant's elective contributions, QNECs, QMACs (including safe harbor matching contributions), and any earnings on those amounts, regardless of when they were contributed or earned
- 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)
- 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). If a suspension is still being applied as of January 1, 2019 for a prior hardship distribution, a plan may eliminate the suspension as of January 1, 2019

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

- The "primary beneficiary under the plan" as an individual for whom qualifying medical, educational, and funeral expenses may be incurred
- Expenses incurred because of a federally declared disaster

The changes are effective as of the first plan year beginning after December 31, 2018. [View the proposed regulations.](#)