Hardship Distributions Made Easier

On September 23, 2019, the IRS published regulations that give participants with financial hardship greater access to their retirement plan assets. Up to this point, most plans have been operating under the proposed regulations, which were released in November 2018. Not much has changed with these final regulations.

Quick take on the new regulations

These final regulations, which apply to hardship distributions taken on or after January 1, 2020:

- Allow most participants—but not 403(b) participants—to take distributions from employer QNECs and QMACs (qualified nonelective and matching contributions) and earnings
- Permit hardship distributions without first requiring the participant to take a plan loan
- Eliminate the six-month suspension of employee elective deferrals following receipt of a hardship distribution

As with the previous regulations, participants still cannot take more from their accounts than they need to meet the hardship (including taxes and penalties on the distribution). But now, under the new regulations, participants can show that the distribution is needed by simply:

1) Taking any distributions that are already allowed under the employer's plan(s)
2) Completing a hardship distribution request that certifies to the employer that the distribution is needed to meet a hardship expense

Next steps

Employers will have to amend their plans to reflect the new hardship rules. Fortunately, the IRS has released guidance—in Revenue Procedure 2020-09—that aligns the amendment deadline for preapproved plans with the deadline for other types of plans. This means that all qualified retirement plans and 403(b) plans will have until December 31, 2021 to amend for the hardship distribution regulations. We will provide updates as we get closer to this date.

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