

One Minute Memo[®]



IRS Provides Special Relief for 401(k), 403(b) and 457(b) Plan Withdrawals to Alleviate Hardships Caused by Hurricane Sandy

On November 16, the IRS issued Announcement 2012-44, which provides special relief for 401(k), 403(b) and 457(b) plans that make loans and hardship withdrawals to participants affected by Hurricane Sandy.

Qualified retirement plans that permit loans and hardship withdrawals are subject to various limitations under IRS rules. For example, an employee generally can receive a hardship withdrawal only for certain narrow reasons and is prohibited from making elective contributions under the plan for 6 months following receipt of the withdrawal. Announcement 2012-44 eases some of the IRS limitations on loans and hardship withdrawals for those participants affected by Hurricane Sandy. The relief can be extended to an employee or former employee if such individual (or his/her lineal ascendant or descendant, or spouse or other dependent) had a principal residence or place of employment in a covered disaster area on October 26, 2012, which include areas of Connecticut, New Jersey, New York and Rhode Island. For a list of specific locations, please click [here](#).

Pursuant to the Announcement, plans may make loans and hardship withdrawals to eligible participants before the normal procedural and documentation requirements are satisfied. The plan administrator also may rely on representations from the participant as to the need for, and amount of, any hardship withdrawal unless they have actual knowledge to the contrary. Further, the 6-month contribution suspension period that normally follows a hardship withdrawal can be waived by the plan administrator. Despite the IRS relief, the plan administrator must still make a good faith effort to comply with the plan's requirements and collect any supporting documentation from the participant as soon as practicable. Any limitations on hardship withdrawals and loans under the plan and the applicable IRS rules would still apply.

Withdrawals and loans under the special IRS relief can be made on or after October 26, 2012, but not later than February 1, 2013. If an eligible plan does not already permit loans or hardship withdrawals, it can make them now, provided the plan is amended by the end of the first plan year beginning after December 31, 2012 (i.e., for calendar year plans, the amendment deadline would be December 31, 2013).

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