



Qualified Plan Corner Brad Mann, JD, QPFC

Congress Relaxes Rules on Hardship Distributions

The Bipartisan Budget Act of 2018 provides greater flexibility for 401(k) plan participants seeking a hardship distribution, while reducing plan sponsors' administrative burden.

Hardship distributions, where a 401(k) plan permits them in its governing document, can provide plan participants with an opportunity to make cash withdrawals (taxable event) for certain specified "hardships" such as to avoid foreclosure or eviction from a principal residence or to cover unreimbursed medical expenses.

An easily overlooked provision in the Bipartisan Budget Act of 2018 changes the rules for hardship distributions as follows, beginning for plan years starting January 1, 2019 or later:

- Plan participants obtaining a hardship distribution are no longer required to stop personally contributing (i.e. deferring) into the plan for six months following receipt of the distribution.
 - Elimination of the six month wait for participants to resume deferring means that plan sponsors (or their plan record keepers) will no longer have to track the end of the participant's waiting period.
- Where the plan also provides for participant loans, the participant will no longer be required to first take a maximum loan in order to qualify for a hardship distribution.
- The new rules will also permit the earnings on elective deferrals to be withdrawn for hardship purposes. Currently, only the deferral contributions themselves can be withdrawn. Including earnings on the elective deferral account will provide uniformity with the other contribution sources (regular matching contributions and profit sharing contributions) that are permitted for hardship purposes, assuming the plan document includes those other sources.

These new rules beginning in 2019 for plans with hardship distribution provisions provide some simplification for these withdrawals. In so doing, they relieve some of the administrative burden hardship withdrawals impose on plan sponsors and record keepers.

For more information or to inquire about our qualified retirement plan services, please contact Brad Mann, JD, QPFC at (336) 275-9886 or bmann@dmjwa.com.