

Publications

Proposed Hardship Withdrawal Regulations Facilitate Hardships

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Hardship withdrawals have historically been a popular plan design choice for defined contribution plans, which allow otherwise impermissible in-service distributions of pre-tax/Roth deferrals prior to age 59½ for those in need. The 401(k) regulations contain detailed rules regarding the process for receiving a hardship withdrawal, as well as several safe harbor provisions to facilitate compliance.

In early 2018, the Bipartisan Budget Act of 2018 (the Act) provided a number of changes to these rules, to be effective for 2019 plan years, and the IRS and Treasury recently issued proposed regulations—83 Fed. Reg. 56763 (Nov. 14, 2018)—to implement these changes, and to further alter these longstanding rules. While we await the final regulations, it is important to understand these changes and consider what modifications to plan operations are desired to facilitate hardship withdrawals. In the article linked below, in question-and-answer format, we review the proposed changes and consider action steps to implement these changes, which are largely optional until January 1, 2020.

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