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Easing of 401(k) and 403(b) Hardship Withdrawals

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On September 23, 2019, the IRS published a final rule simplifying the hardship withdrawal process for defined contribution plan participants. Some of these new, mandatory requirements take effect on January 1, 2020.

Now is the time for plan sponsors to review their plan documents to determine what provisions may need to be updated. More specifically, 401(k) plans that permit hardship distributions must be amended by December 31, 2021 to reflect the new rules. 403(b) plan sponsors have until March 30, 2020, though the Treasury and IRS may extend this tight deadline.

Here is an overview of the key provisions to help you with your evaluation:

» **Elimination of loan requirement**
Under the prior rules, participants could request a hardship withdrawal only if they had first taken a loan from the plan (if offered). The elimination of this requirement gives participants more flexibility as to how they access the money in their accounts in the case of a financial emergency.

» **Removal of the six-month suspension of employee contributions**
Effective January 1, 2020, plans will no longer be able to suspend contributions following a hardship distribution. Letting participants contribute without disruption helps them keep their retirement savings on track.

» **Simplified hardship verification process**
Today, plan administrators must consider "all relevant facts and circumstances" to determine whether a hardship withdrawal is necessary for a participant. The new rule requires the affected employee to certify that they lack enough available cash to meet a financial need, and the amount distributed can't exceed this need. Additionally, plan administrators can soon rely on the employee's certification unless they have knowledge to the contrary.

» **Earnings available for withdrawal**
Earnings on employee contributions, profit-sharing contributions and stock-bonus contributions are now eligible for hardship withdrawals. However, earnings on 403(b) contributions aren't eligible as Congress didn't statutorily amend the 403(b) regulations for this item.

» **Disaster relief**
A new safe harbor category allows hardship withdrawals for expenses that result from a federally declared disaster area designated by FEMA.

The likely consequence of these simplified rules is that they may lead to a reduction in the retirement preparedness of Americans overall. However, not all is bad. Those involved with the administration of hardship withdrawals may spend less time processing requests, which means they'll have more time to focus on other priorities. If you have any questions about these new rules, please contact a Cerity Partners retirement plan consultant.

Paul is a Partner in the firm's Retirement Plan Advisory Group. He has more than 15 years of experience in the retirement plan industry and specializes in helping organizations understand how plan design can dramatically improve their employees' ability to successfully retire and how proper governance can limit personal fiduciary liability. Paul has worked with a variety of public, private and nonprofit organizations providing them with proven strategies that have resulted in improved outcomes for thousands of retirement plan participants.