

Hardship Withdrawal Changes under the new Budget Act



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The Bipartisan Budget Act of 2018 contains changes to the ways in which hardship withdrawals from qualified retirement plans are administered. All of the below changes are effective for plan years beginning after December 31, 2018. Specifically:

1. Employees who take a hardship withdrawal from the plan will no longer be subject to the 6-month prohibition on contributions. What about employees who take a hardship withdrawal at the end of 2018? Will they only be suspended through December 31, 2018, and then have the suspension dropped as of January 1, 2019? The language in the Act is not clear, but presumably they would still be subject to the full suspension, as they took the withdrawal during 2018, with the understanding that they would be subject to a suspension. It appears to me that only hardships that are initiated after 12/31/18 (for a calendar year plan) can avoid the suspension. But hopefully, we will be given clarification on this point before the end of 2018.
2. The Internal Revenue Code is amended to allow that not only can employees take a hardship from their employee deferrals to a 401(k) or 403(b) plan, but they can also withdraw the earnings from those accounts. Under current rules, employees are only allowed to withdraw their accumulated contributions, not the earnings on the account.
3. Qualified Matching Contributions (QMACs) and Qualified Nonelective Contributions (QNECs), as well as earnings on those accounts, may be distributed on account of hardship.
4. The requirement that the employee must first obtain all nontaxable loans available under the plan (and any other plans maintained by the employer) before requesting a hardship withdrawal has been removed.

These are welcome changes to employers and third-party administrators who are reviewing and approving hardship withdrawal requests.



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