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Torrillo & Associates

Benefit Plan Audit Specialists

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Plans Can Make Loans, Hardship Distributions to Victims of Hurricane Irma & Harvey

The Internal Revenue Service announced that 401(k)s and similar [employer-sponsored retirement plans can make loans and hardship distributions](#) to victims of Hurricane [Irma](#) and Harvey and members of their families. This is similar to relief provided last year to [Louisiana](#) flood victims and victims of [Hurricane Matthew](#).

Participants in 401(k) plans, employees of public schools and tax-exempt organizations with 403(b) tax-sheltered annuities, as well as state and local government employees with 457(b) deferred-compensation plans may be eligible to take advantage of these streamlined loan procedures and liberalized hardship distribution rules. Though IRA participants are barred from taking out loans, they may be eligible to receive distributions under liberalized procedures.

Retirement plans can provide this relief to employees and certain members of their families who live or work in disaster area localities affected by Hurricane Irma and Harvey and designated for individual assistance by the Federal Emergency Management Agency (FEMA). For a complete list of eligible counties,

visit <https://www.fema.gov/disasters>. To qualify for this relief, hardship withdrawals must be made by Jan. 31, 2018.

The IRS is also relaxing procedural and administrative rules that normally apply to retirement plan loans and hardship distributions. As a result, eligible retirement plan participants will be able to access their money more quickly with a minimum of red tape. In addition, the six-month ban on 401(k) and 403(b) contributions that normally affects employees who take hardship distributions will not apply.

This broad-based relief means that a retirement plan can allow a victim of Hurricane Irma or Harvey to take a hardship distribution or borrow up to the specified statutory limits from the victim's retirement plan. It also means that a person who lives outside the disaster area can take out a retirement plan loan or hardship distribution and use it to assist a son, daughter, parent, grandparent or other dependent who lived or worked in the disaster area.

Plans will be allowed to make loans or hardship distributions before the plan is formally amended to provide for such features. In addition, the plan can ignore the reasons that normally apply to hardship distributions, thus allowing them, for example, to be used for food and shelter. If a plan requires certain documentation before a distribution is made, the plan can relax this requirement as described in Announcement 2017-11.

The IRS emphasized that the tax treatment of loans and distributions remains unchanged. Ordinarily, retirement plan loan proceeds are tax-free if they are repaid over a period of five years or less. Under current law, hardship distributions are generally taxable and subject to a 10-percent early-withdrawal tax.



Further details are in Announcements 2017-13 and 2017-11, posted on IRS.gov. More information about other tax relief related to Hurricane Irma and Harvey can be found on the IRS [disaster relief](#) page. For information on government-wide relief efforts, visit <https://www.irs.gov/newsroom/help-for-victims-of-hurricane-irma> or



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Who We Are

Torrillo & Associates, LLC specializes in employee benefit plan audits including 401k audits, 403b audits, pension plan audits, and other retirement plan audits. We are licensed in 10 states including Pennsylvania, New Jersey, Delaware, New York and Florida. We are also able to practice in additional states that have passed firm mobility.

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