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Benefit Plan Audit Specialists

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IRS Provides Guidance on Early Permissible Retirement Plan Distributions



The Internal Revenue Service recently issued [Notice 2024-55](#), which provides guidance on exceptions to the additional tax when taking early permissible

retirement plan distributions for emergency personal expenses and for victims of domestic abuse.

Exceptions to the additional tax when taking early permissible retirement plan distributions was added by the [SECURE 2.0 Act of 2022](#). The provisions became effective on January 1, 2024.

Emergency personal expense distributions

The notice provides that a taxpayer is permitted to receive a distribution from an applicable eligible retirement plan to meet unforeseeable or immediate financial needs relating to necessary personal or family emergency expenses. The notice:

- defines emergency personal expense distributions, including what is an unforeseeable or immediate financial need;
- provides that qualified defined contribution plans (including section 401(k) plans), section 403(a) annuity plans, section 403(b) plans, governmental section 457(b) plans or IRAs are eligible to permit emergency personal expense distributions;
- describes the limitations (both dollar amount and frequency) on receiving emergency personal expense distributions; and
- provides that individuals receiving emergency personal expense distributions are permitted to repay these distributions to certain plans.

Distributions to victims of domestic abuse

Notice 2024-55 also provides that a taxpayer is permitted to receive a distribution from an applicable eligible retirement plan if made during the one-year period beginning on the date on which the individual is a victim of domestic abuse by a spouse or domestic partner. The notice:

- defines domestic abuse victim distributions, including the definition of domestic abuse;
- provides that IRAs and certain retirement plans that are not subject to the spousal consent requirements under sections 401(a)(11) and 417 are eligible to permit domestic abuse victim distributions;
- describes the dollar limitation (indexed for inflation) on receiving domestic abuse victim distributions; and
- provides that domestic abuse individuals are permitted to repay domestic abuse victim distributions to certain plans.

The notice also provides guidance to applicable eligible retirement plans on the plan requirements relating to emergency personal expense distributions and domestic abuse victim distributions, including that it is optional for a plan to permit these types of distributions.

In addition, the notice provides that the Department of the Treasury and the IRS anticipate issuing regulations on the 10% additional tax (including the exceptions to the 10% additional tax) and request comments relating to the notice. Comments are specifically requested on repayments of certain distributions permitted under section 72(t)(2).



Taxpayers should know that these distributions are includible in gross income but are not subject to the 10% additional tax. Individuals report early distributions that are not subject to the 10% additional tax on line 2 of [Form 5329, Additional Taxes on Qualified Plans \(including IRAs\) and Other Tax-Favored Accounts](#).



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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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