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401(k) Hardship Withdrawals - Made Easier by the 2018 Budget Act

401(K) PLANS
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Hardship withdrawals from 401(k) and 403(b) plans will be soon become less restrictive under the provisions of the recently-passed Bipartisan Budget Act of 2018" (the "Budget Act").

Under current rules, 401(k) plan participants who experience a "qualifying event" may elect to receive a hardship distribution from their retirement account. A qualifying event includes (1) eviction or foreclose prevention from a principal residence, (2) the purchase of a primary residence, (3) medical expenses, (4) educational expenses, (5) funeral and burial expenses and (6) certain home repairs due to damages in a declared disaster area. Additionally, a participant must exhaust all other options for withdrawal within the plan (i.e. loans) prior to being eligible for a hardship withdrawal and can only receive amounts he or she previously contributed to the plan. Finally, future 401(k) or similar contributions will be suspended for a period of 6 months following the date of the hardship withdrawal.

Effective for hardship distributions that occur after January 1, 2019, employees will no longer be subject to the 6-month suspension period for contributions. Also, amounts eligible for withdrawal will be expanded to include earnings, as well as other employer contributions previously made to the plan. Lastly, the legislation would remove the requirement to take a loan before qualifying for a hardship withdrawal.

While the 2018 Budget Act makes hardship withdrawal rules less restrictive and easier for plan sponsors to administer, plans will need to be amended to incorporate the new rules for plan years beginning after December 31, 2018.

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