IRA and Employer Plan Disaster Relief

Learn how disaster victims can access their retirement savings

For years, Congress and the IRS have addressed natural disasters (and others) with largely piecemeal responses. For example, when a major hurricane struck, the President would declare a federal disaster, Congress would grant certain relief, and the IRS would implement the details, such as determining the timing of allowable distributions from retirement plans and extending filing deadlines.

More recently, Congress has equipped the IRS with more sweeping authority to respond to disasters—without having to wait for legislative action. The SECURE 2.0 Act permanently allows affected IRA owners and plan participants in 401(a) defined contribution plans (including 401(k) plans), 403(a) and 403(b) annuity plans, and governmental 457(b) plans to take penalty-free distributions and to borrow more from their retirement savings when a major disaster has been declared by the President.

This article summarizes current federal disaster relief guidance. Additional information can be found in a set of frequently asked questions (FAQs) released by the IRS in May 2024 and in IRS Form 8915-F. Individuals can also find federal disaster declarations at the Federal Emergency Management Agency's (FEMA's) website.

NOTE: *Individuals should seek competent tax advice to ensure that they are complying with the disaster-relief requirements.*

Penalty-Free Disaster Distributions

Plan permitting, qualified individuals may receive "qualified disaster recovery distributions" of up to $22,000 per disaster without incurring a 10% early distribution penalty tax.

- $22,000 is the maximum aggregate amount for each disaster; an individual with more than one IRA or employer plan is still bound by that per-disaster limit.
- Distributions must generally be made within 180 days after the disaster occurs (or, if later, within 180 days after the disaster declaration).
- The qualified distribution is taxed ratably over three years, starting with the distribution year, unless the recipient elects to include the entire amount in income in the year of the distribution.
- Distributions may be repaid to an IRA or eligible plan at any time during the three-year period beginning on the day after the date the distribution was received.
- Although such a distribution is repayable, it is not considered an "eligible rollover distribution" for certain employer plan purposes, such as notice requirements and withholding.

Recontributions Of Withdrawals For Home Purchases

Affected plan participants and IRA owners may recontribute qualified distributions if such distributions were to be used to purchase or construct a principal residence in a disaster area and that principal residence was not purchased or constructed on account of the disaster. The following requirements also apply.

- IRA distributions for first-time home purchases are limited to $10,000.
- Employer plan distributions for home purchases are dictated by the 401(k) and 403(b) hardship regulations.
- The individual must have received the distribution within 180 days before the start of the disaster.
- Recontributions must be made within 180 days after the disaster occurs (or, if later, within 180 days after the disaster declaration).

Relaxed Loan Restrictions

Employers that offer plan loans may allow participants whose principal residence is in the disaster area—and who have sustained an economic loss because of the disaster—to borrow more from their retirement plans.

- Plan participants may borrow up to the lesser of
  - 100% of the present value of their vested account balance, or
  - $100,000.

  NOTE: *The normal limit is the lesser of 50% of the participant's vested account balance, or $50,000.*
- For any loan repayment date that falls between the disaster start date and 180 days after the disaster ends, that due date can be delayed for one year.

Hardship Distributions from Employer Plans

In addition to the relief provided by SECURE 2.0, if an employer plan provides hardship distributions and uses the safe harbor definition for hardship, plan participants may take hardship distributions for expenses and losses (including loss of income) because of a major disaster. To be eligible, the participant's principal residence or principal place of employment at the time of the disaster must be located in an area designated by FEMA as eligible for individual disaster assistance.