

## **Rules Applicable to Hardship Distributions**

A hardship distribution is a distribution from a participant's retirement plan because of an immediate and heavy financial need. Plans are permitted (but are not required) to allow for hardship distributions.

Under IRS requirements:

- The amount of a hardship distribution cannot exceed the immediate and heavy financial need.
- To qualify, the participant must have no alternative means reasonably available to satisfy the financial need.
- A financial need may be immediate and heavy even if it was reasonably foreseeable or voluntarily incurred by the participant.
- The amount needed may include amounts to pay any federal, state, or local income taxes or penalties reasonably anticipated to result from the distribution.
- Consumer purchases are generally not considered an immediate and heavy financial need, but a financial need may be considered immediate and heavy even if it was reasonably foreseeable or voluntarily incurred.

A participant is automatically considered to have an immediate and heavy financial need for the following "safe harbor" distributions:

- Medical expenses incurred or necessary for medical care of the participant or the participant's spouse, dependent, or primary beneficiary under the plan.
- The purchase (excluding mortgage payments) of the participant's principal residence.
- Payment of tuition, related educational fees, and room and board expenses for up to the next 12 months of post-secondary education for the participant or the participant's spouse, child, dependent, or primary beneficiary under the plan.
- Payments necessary to prevent the eviction of the participant from the participant's principal residence or foreclosure on the mortgage on that residence.
- Payments for burial or funeral expenses for the participant's deceased parent, spouse, child, dependent or primary beneficiary under the plan.
- Certain expenses to repair damage to the participant's principal residence.
- Expenses and losses (including loss of income) incurred by the participant on account of a federal disaster provided that the participant's principal residence or principal place of employment at the time of the disaster is located in an area designated by FEMA as qualifying for individual assistance.

Under SECURE 2.0, participants are now allowed to self-certify that they have experienced an event that constitutes a hardship. Participants can self-certify a hardship using Aviben's [Hardship Self-Certification Form](#).

Hardship distributions are subject to income taxes, and early distributions are usually subject to an additional 10% tax unless an exception applies. Exceptions to the 10% penalty include but are not limited to age (59 ½ or older), domestic abuse, terminal illness, birth and adoption, and qualified federally declared disasters.

Contact Aviben if you have questions about qualification for hardship distributions under your plan. More information is also available at the IRS website:

- [IRS Retirement Topics: Hardship Distributions](#)
- [IRS Retirement Plan FAQs Regarding Hardship Distributions](#)
- [IRS Retirement Topics: Exceptions to Tax on Early Distributions](#)