

Qualified Disaster Distribution

APRIL 3, 2023

First, our thoughts and hearts go out to those impacted by the tornados that passed through Arkansas last Friday, March 31, 2023. We know this is a difficult time, and we hope you have a smooth and fast recovery. In light of the disasters, we are writing to alert you about new provisions that may be added to a qualified retirement plan or 403(b) plan under the SECURE Act 2.0. These optional provisions could be added to offer assistance to those impacted by these storms since President Biden declared, on April 2, 2023, a federal disaster area for Cross, Lonoke, and Pulaski Counties in Arkansas. These new retirement plan provisions are designed to help those Eligible Participants, who are individuals that have:

- their primary residence in the federally declared disaster area (i.e., Cross, Lonoke, and Pulaski Counties in Arkansas), and
- sustained an economic loss due to such disaster.

Qualified Disaster Distribution – up to \$22,000

An Eligible Participant could take a qualified disaster distribution, up to \$22,000, and such distribution is exempted from the 10% early withdrawal penalty that may normally apply. The qualified disaster distribution could be available no later than 180 days after the federal disaster was declared (i.e., before September 29, 2023).

The qualified disaster distribution may be included in income ratably over three years, or alternatively, the individual can repay the distribution back to a qualified plan, 403(b) plan, governmental 457(b) plan, or an IRA plan within three years from the date of distribution.

Loan Options for Eligible Participants – up to \$100,000 or 100% of the plan account balance

An Eligible Participant could borrow more from a plan than the normal plan loan limits allow. The limit for these Eligible Participants would be the lesser of \$100,000 or 100% of the vested interest in the plan accounts. Additionally, if a repayment for a plan loan is due on the date of the disaster (i.e., March 31, 2023) or within 180 days thereafter, then these repayment dates could be extended for up to 1 year. After such delay period is over, loan repayments are adjusted to reflect the delay in the repayments and for any interest accrued during such delay. Also, the five-year limit that typically applies to loan repayments disregards this one-year delay.

Optional Repayment of Hardship Distributions

If an individual, who does not have to be an Eligible Participant, received a hardship distribution between October 2, 2022, and April 30, 2023, (180 days prior to the disaster and 30 days thereafter) that was intended to purchase or construct a primary residence but the hardship distribution is not so used due to the disaster, then the individual can repay such hardship distribution back to the plan. The repayment must be made between March 31, 2023, and September 29, 2023.

If you want to visit about adding this to your retirement plan, please contact your Friday, Eldredge & Clark, LLP attorney to start the process.

Jeremiah D. Wood

— SUMMARY

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