

Hardship Tips from the IRS

A Segment in Our Retirement Rescue Series

IRS Examination Agents continue to find errors in how Plan Administrators apply the hardship distribution rules in their Plans. The IRS has compiled Hardship Distributions Tips based on employee plans examination results to assist Plans with compliance.

Does your Plan need to be rescued?

The Most Common Hardship Distribution Errors

Exam Agents often find the following hardship distribution errors in employee plans under examination:

- ⇒ Participants were granted hardship distributions, however the Plan Document did not permit this type of distribution.
- ⇒ Hardship distributions were made for reasons other than those specified in the Plan Document.

Knowing the most commonly found hardship distribution errors will allow Plan Sponsors to review their Plan for compliance, correct present failures, and lessen the chance of these errors being found in an IRS audit. If your Plan has erroneously made hardship distributions, review correction methods in this previous [401\(k\) Rescue](#).

Hardship Distribution Tips

- ⇒ Review the Plan Document to identify if the Plan allows hardship distributions, the definition of a “hardship”, procedures which both the employee and employer must follow, and limits on the amount and type of funds which can be distributed for hardship.
- ⇒ If a Plan has erroneously allowed hardship distributions when the Plan Document does not allow for these distributions, a retroactive amendment can be made in the EPCRS Self-Correction Program (SCP) if not under audit.
- ⇒ Plan provisions regarding hardship distributions should be strictly followed. Plans cannot be liberal in their interpretation.
- ⇒ Keep detailed records of the procedures and criteria for hardship distributions made to participants.
- ⇒ Hardship distributions can only be made to satisfy an employee’s immediate and heavy financial need. Distributions cannot exceed the amount needed to relieve the need or be made if another reasonably available resource would satisfy the need.

Agent Examination

When IRS Agents examine a Plan’s hardship distributions and procedures, they are looking to confirm that they are in compliance with the Plan Document and the law. A system of internal controls and comprehensive hardship distribution records can lead to a smooth, efficient examination overall.