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# Final Tax Legislation – Provisions Affecting 401(k) Plans

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While tax reform proposals considered by Congress were rumored to include major changes like significantly lower limits on pre-tax contributions to 401(k) plans, the separate bills passed by the House and Senate included more modest changes for retirement plans. (See our prior blog posts on these bills here and here.) The final tax legislation passed under reconciliation rules left out most of these changes, but retained two provisions impacting 401(k) plans:

- Extended Rollover Periods for Plan Loan Offsets. The terms of 401(k) plan loans generally provide for the loan to come due in full upon the termination of the plan or when the employee terminates employment. In these cases, the amount of the outstanding plan loan is offset from the employee's account and is considered a distribution from the plan. However, the employee can avoid adverse tax consequences (including the 10% early distribution penalty) by completing a "rollover" of the plan loan offset by making a contribution to an IRA or another eligible employer retirement plan in the amount of the plan loan offset within 60 days. The final tax legislation extends the rollover period to the due date (including extensions) for filing the federal income tax return for the taxable year in which the plan loan offset is treated as an actual distribution. This provision is effective for tax years beginning after December 31, 2017.
- Relief for Distributions for Participants in 2016 Disaster Areas. Earlier in 2017, Congress passed relief for 401(k) plan participants affected by Hurricanes Harvey, Irma or Maria that allowed participants to take distributions on account of losses due to the hurricane of up to $100,000, which are not subject to the 10% early distribution penalty and which can be taken into income over a 3-year period or recontributed to the plan within 3 years. (See our prior blog post on the hurricane relief legislation here.) The final tax legislation provided similar relief for distributions of up to $100,000 for participants who resided in a federally-declared disaster area in 2016 (such as Hurricane Matthew-affected areas from Florida to Virginia), provided that the distribution was taken between January 1, 2016 and December 31, 2017. Plan amendments will be required to incorporate this provision, which are expected to be addressed in future IRS guidance.
    - Note that this disaster relief does not extend to 2017 disasters that were not covered by the hurricane relief legislation, such as the California wildfires. While the IRS has extended relief lessening the administrative standards for hardship distributions to victims of the California wildfires, the IRS relief does not provide any income tax relief or any exception to the 10% early distribution penalty that applies under the hurricane relief or 2016 disaster area relief legislation.

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