

## DC Plan Sponsors and Participants Get Disaster Relief

**Author: Jana Steele**

In response to Hurricanes Florence and Michael, and the 2018 California wildfires, the Internal Revenue Service (IRS) and Department of Labor (DOL) have extended relief to those affected by the disasters from certain defined contribution (DC) plan requirements.

***(Estimated reading time: 3 min 15 sec)***

Individual relief for those impacted by the hurricanes:

- Hurricane victims will have easier access to DC plan funds until March 15, 2019. Hurricane Florence areas include specific counties in North Carolina, South Carolina, and Virginia, and designated Hurricane Michael counties are in Alabama, Florida, and Georgia.
- Relief is available to employees or former employees whose primary residence or place of employment is located in covered disaster areas. Participants who live outside the area may take out a loan or hardship withdrawal and use it to assist a child, parent, grandparent, or other dependent who lived or worked in the disaster area.
- The IRS also provided relief from certain procedural rules that normally apply to loans and distributions. For example, if a loan or distribution requires spousal consent or a death certificate, if applicable, the plan will not be disqualified for failing to secure the death certificate if it is reasonable to believe that the spouse is deceased, and the plan administrator makes reasonable efforts to obtain the death certificate as soon as practicable.
- The IRS provided relief from certain administrative requirements for hardship withdrawals. Under the current rules, a participant is prohibited from making deferrals for at least six months following a hardship withdrawal. Plans need not apply this restriction for impacted individuals. The current six-month suspension requirement will be eliminated beginning in 2019.

These modifications have not yet been confirmed for victims of the California wildfires, but we expect they will be granted in due time.

The IRS emphasized that the tax treatment of loans and distributions remains unchanged. Loans are tax-free if they are repaid over a period of five years or less, and hardship withdrawals are generally taxable and subject to a 10% early withdrawal tax.

Plan sponsor relief for hurricanes and wildfires:

- Plans will be allowed to make the loans or hardship withdrawals described above

before the plan is formally amended to provide for such features.

- Plan administrators may rely on representations from the participant as to the need for and amount of a hardship withdrawal. However, the plan administrator must make a reasonable attempt to assemble any documentation as soon as practicable.
- The DOL granted limited relief from the requirement that contributions and loan repayments be made in a timely manner. This is not a blanket waiver for funding, but it allows plan sponsors some leeway if they are unable to make the contributions. This relief is available to employers and service providers located in the covered disaster areas and is predicated on the understanding that affected employers and service providers comply with those requirements as soon as practicable.
- The DOL also granted relief to DC plans that may inadvertently experience a blackout. This is a period of more than three consecutive business days that a participant's ability to direct investments, obtain loans, or receive other distributions from the plan is limited.
- Plans with filing deadlines that were impacted by the disasters are granted additional time to file. These dates vary based on the timing of the disaster.

**Bottom Line:** The extent of the relief and the parties covered vary by agency and the timing of the disaster in question. Service providers will need to identify individuals who are eligible for relief, which may include relatives of participants. Plan sponsors should work with their plan administrators to confirm appropriate protocols are in place to manage transactions prompted by the recent disasters and to gather the required documentation at a later date. Plan sponsors also should consider long-term planning to streamline plan administration in the event of future disasters.

*For more information on the types of disaster relief, visit the dedicated [IRS](#) and [DOL](#) webpages.*