SECURE 2.0

How SECURE 2.0 Changed the Hardship Rules

Employers with 401(k) and 403(b) plans may allow participants to take a hardship distribution as long as the distribution is

1. made on account of an immediate and heavy financial need,
2. does not exceed the amount necessary to satisfy that need, and
3. the participant does not have an alternative means reasonably available to satisfy such financial need.

In the past, participants could self-certify the 2nd and 3rd requirements. Employers were required to evaluate and approve hardship distributions (e.g., by collecting and maintaining documents) to ensure that these requirements were met.

SECURE 2.0 Expands Hardship Self-Certification

In addition to self-certifying the 2nd and 3rd requirements, employers may now establish policies and procedures allowing participants to self-certify that the hardship distribution is being made on account of a deemed immediate and heavy financial need[1]. Employers are no longer required to collect documentation when approving hardship distributions, which should help streamline the hardship distribution process. However, participants should retain documentation of the need for the distribution.

SECURE 2.0 created a similar self-certification rule that applies to distributions for unforeseeable emergencies from governmental 457(b) plans.

Future Guidance Expected

The Treasury Secretary may issue regulations that contain

- exceptions to the self-certification process when the plan administrator has actual knowledge that the participant's self-certification is false, and
- procedures that address cases of participant misrepresentation.

[1] Medical expenses, purchase of a principal residence, educational payments, foreclosure/eviction from a principal residence, funeral and burial expenses, repairs to damage to principal residence related to casualty loss, and expenses and losses related to a federally declared disaster.