



FINANCIAL HARDSHIP WITHDRAWALS

Plan Sponsor Responsibilities

As the Plan Administrator, it is your responsibility to approve or deny a Participant’s request for a financial hardship withdrawal. When you approve a hardship withdrawal, you direct the Recordkeeper to distribute the hardship amount requested in accordance with the provisions of the Plan Document and IRS Regulations.

1. Certify the documentation evidencing the hardship was reviewed and satisfies IRS requirements.
2. Compute the hardship amount approved for withdrawal based on the participant’s supporting documentation.
3. Verify the participant has received other available distributions from all plans of the employer (excluding loans and hardships) prior to taking the hardship withdrawal. The employer may rely on the participant’s representation that they have insufficient cash or liquid assets to satisfy the financial need.

Reason for Taking a Hardship Withdrawal		Suggested documentation
1.	Costs directly related to the purchase of the principal residence (not including mortgage payments)	Signed copy of purchase agreement
2.	Payments for tuition, related educational fees, and room and board expenses for the next 12 months of post-secondary education for participant, spouse, dependents or primary beneficiary	Bill from institution or proof of enrollment from institution with estimate of cost
3.	Medical care that would be deductible under IRC §213(d) for participant, spouse, dependents or primary beneficiary	Explanation of benefits from insurance company or invoice of expenses owed from hospital or physician showing amount owed
4.	Payments necessary to prevent eviction from participant’s principal residence or to prevent foreclosure on the mortgage on that residence	Letter from mortgage company referencing foreclosure or letter from landlord referencing eviction and the amount owed to prevent it
5.	Payments for burial or funeral expenses for participant’s deceased parent, spouse, children, dependents or deceased primary beneficiary	Bill from funeral home and copy of death certificate
6.	Expenses for the repair of damage to participant’s principal residence that would qualify for the casualty deduction under Code Section §165 determined without regard to section 165(h)(5) and whether the loss exceeds 10% of adjusted gross income. Generally a casualty is a loss from fire, storm or natural disaster such as a tornado or hurricane.	Bill evidencing repairs or estimates needed to complete the repairs, along with proof that insurance proceeds did not cover the amount of the casualty expense claimed as a hardship
7.	Expenses and losses (including loss of income) incurred by the employee on account of a disaster declared by the Federal Emergency Management Agency (FEMA) under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Pub. L. 100-707, provided that the employee’s principal residence or principal place of employment at the time of the disaster was located in an area designated by FEMA for individual assistance with respect to the disaster.	Bill evidencing repairs or estimates needed to complete the repairs, along with proof that insurance proceeds did not cover the amount of the casualty expense claimed as a hardship

Permissible Hardship Events

The IRS has identified six Safe Harbor reasons for taking a hardship withdrawal. The chart below includes suggested documentation to review and retain on file in case of audit.

Frequently Asked Questions

Q. What is the definition of Hardship?

A. A distribution made on account of an immediate and heavy financial hardship, and must not exceed the amount needed to satisfy the financial need.

Q. What is an immediate and heavy financial hardship?

A. A distribution is deemed to be for an immediate and heavy financial hardship if it is made for any one or combination of the reasons described under the Permissible Hardship Events above.

Q. How is the amount determined to satisfy the financial need?

A. The participant must certify that the amount does not exceed the amount of the financial need and that he/she has received all current available distributions from all plans of the employer and has no other resources available.

Q. Can a participant request a hardship withdrawal to pay off a student loan?

A. No, the rules state that paying for post-secondary educational expenses for the next 12 months is an acceptable hardship, not for past educational expenses. Also, a student loan constitutes having additional resources available (see third question).

Q. What is an eligible post-secondary educational institution?

A. Any university, college, trade school, or vocational school.

Q. Can a participant request a hardship withdrawal for laser eye surgery?

A. Yes, laser eye surgery is performed to correct vision

problems and this is an allowable medical expense. Code Section 213(d)(1)(A) defines medical expenses as "the diagnosis, cure, mitigation, treatment, or prevention of disease, or for the purposes of affecting any structure or function of the body". Generally, if a surgery is completed to correct a physical defect, and it is not cosmetic, it will likely be considered a medical expense.

Q. Can a participant request a hardship withdrawal for dental expenses?

A. Yes, assuming the dental work is not strictly cosmetic. Acceptable dental expenses would be X-rays, fillings, extractions, braces; however, teeth whitening would not be acceptable.

Q. Can a participant request a hardship withdrawal to purchase land?

A. Yes, assuming the land will be used to build a principal residence. An expense related to building the principal residence is acceptable, this would include the cost to purchase the land.

Q. Can a participant request a hardship withdrawal to pay delinquent property taxes?

A. No, since the IRS only allows hardship withdrawals to prevent foreclosure and this would not necessarily result in foreclosure. If a mortgage company is involved, they will typically threaten foreclosure if property taxes are not paid which would meet the permissible hardship event #4 above.

Further Questions

It is extremely important to correctly determine if a participant is eligible for a hardship withdrawal, as an ineligible distribution could disqualify your Plan. Please reach out to your Third Party Plan Administrator with further questions.

The above information is not intended to provide tax, accounting or legal advice, and any information presented in this document should not be relied upon as such. Participants and Plan Sponsors should review any planned financial transactions or arrangements that may have tax, accounting or legal implications with their personal professional advisors.