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BENEFITS ALERT: Hardship/Loan Documentation

In its latest issue of Employee Plans News, the IRS reminds plan sponsors of the importance of documenting hardship and loan distributions. Plan sponsors who do not have detailed distribution files available for examination could face penalties should the IRS ever audit the plan. Files may be kept in paper or electronic format.

Hardships

For hardships, the IRS recommends that plans retain the following:

- The participant's application
- The plan's review and approval documents
- Documents supporting the hardship request
- Documents that the distribution was made in accordance with the plan's rules (and any applicable rules under the Internal Revenue Code)
- Proof of the distribution and related Form 1099-Rs

Loans

For loans, the IRS recommends that plans retain the following:

- The participant's loan application
- The plan's review and approval documents
- Documentation that the loan was used to purchase or construct a primary place of residence (if applicable)
 - This is important because the repayment periods for such loans are longer than those loans for other purposes
- Evidence of loan repayments
- Evidence of collection activities for defaulted loans and related Form 1099-Rs

Of course, if you are using a third party administrator, you should be sure that it is responsibly maintaining these documents. You may want to consider a limited scope audit of your administrator for compliance in this area.

With the IRS specifically addressing this issue in its newsletter, it is an area that the IRS will likely focus on should it decide to audit a plan. We would be happy to assist you in reviewing your procedures (whether they be in-house or with a third party administrator) to make sure that proper documentation is being preserved and that proper procedures are being followed in approving hardships and/or loans.

More information is available at the following IRS web pages:

- [Internal Controls Protect Your Retirement Plan](#)
- [Retirement Topics - Plan loans](#)
- [Retirement Plan FAQs Regarding Loans](#)
- [Fixing Common Plan Mistakes - Participant Loans in 401\(k\) Plans](#)
- [Fixing Common Plan Mistakes - Plan Loan Failures and Deemed Distributions](#)
- [Retirement Plans FAQs regarding Hardship Distributions](#)
- [Do's and Don'ts of Hardship Distributions](#)
- [Hardship Distribution Tips from EP Exam](#)

If you have any questions, please do not hesitate to contact us.

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