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Victims of Louisiana Storms and Flooding May Access Assets from Qualified Retirement Plans to Alleviate Hardships

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The IRS has issued Announcement 2016-30 which provides relief to Louisiana taxpayers to alleviate hardships caused by storms and flooding that began August 11, 2016 (the Louisiana Storms).

As a general rule, certain retirement plans may allow participants to request a loan or in-service distribution because of a hardship or unforeseeable emergency. In order to be entitled to such hardship distributions, a participant must either document the hardship and the amount needed to cover the hardship, or certify that the hardship event falls within one of the predesignated "safe harbor" categories.

Under the relief granted, plan administrators may rely upon representations from the employee or former employee as to the need for an amount of a hardship distribution as a result of the Louisiana Storms, and, unless the plan administrator has actual knowledge to the contrary, the distribution will be treated as a hardship distribution for all purposes under the code and regulations. Further, plans that do not currently allow for hardship distributions may make hardship distributions to the victims of the Louisiana Storms as long as the plan is amended to provide for loans or hardship distributions no later than the end of the first plan year beginning after December 31, 2016.

The relief described in Announcement 2016-30 applies to an employee or former employee whose:

1. Principle residence on August 11, 2016, was located in one of the parishes that has been identified as part of a covered disaster area because of the devastation caused by the Louisiana Storms;
2. Place of employment was located in one of these parishes on that date; or
3. Lineal ascendant or descendant, dependent, or spouse had a principle residence or place of employment in one of these parishes on that date.

To qualify for the relief, a hardship distribution must be made on account of a hardship resulting from the Louisiana Storms on or after August 11, 2016, and no later than January 17, 2017.

Plan administrators may make hardship distributions or loans to victims of the Louisiana Storms without first gathering all the necessary documentation, provided the plan administrator makes a good faith diligent effort under the circumstances to gather that documentation and, as soon as practical, the plan administrator makes a reasonable attempt to assemble any foregone documentation.

Any loans made in accordance with the relief provided by Announcement 2016-30 must be repaid in accordance with their terms, and any distributions will be subject to income tax and generally to the ten percent penalty on early distributions.

For more information on this Announcement or other related matters, please contact Bill Robinson or any of the attorneys in the Firm's Tax Group.