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IRS Updates Operational Compliance List for Qualified Retirement Plans

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The IRS has published its Operational Compliance List for 2019, which reflects legislative or regulatory changes that may impact the administration of qualified retirement plans. Generally, plan amendments incorporating items on the Operational Compliance List will not be required until the end of the second plan year after the IRS includes the item on a Required Amendments List.

The items included for 2019 on the Operational Compliance List are as follows:

- Hardship Distributions. The Bipartisan Budget Act of 2018 made legislative changes to hardship distribution rules for 401(k) plans, which were further modified by IRS proposed regulations, as follows:

    ◦*Available loans*. Participants are not required to take all available loans prior to obtaining a hardship distribution.

    ◦*Sources available*. Available sources have been expanded, which now include earnings on 401(k) contributions.

    ◦*6-month suspension.* Participants taking a hardship distribution are no longer required to be suspended from making 401(k) contributions for 6 months. Effective for plan years beginning after December 31, 201, plans will not be permitted to suspend a participant's elective contributions following a hardship withdrawal.

    ◦*Casualty loss.* Plans do not need to incorporate the changes to Section 165 of the Code limiting the casualty loss deductions to losses from a federally-declared disaster area for a hardship event.

    ◦*Participant representations*. For hardship distributions made after 2019, plans will be required to obtain a representation from the participant that the distribution is necessary to satisfy a financial need.

- Relief for Hurricanes Florence and Michael. The IRS provided relief that expands the availability of hardship distributions on account of losses resulting from Hurricanes Florence or Michael through March 15, 2019.

- Nondiscrimination Relief for Closed Defined Benefit Plans. The IRS extended nondiscrimination testing relief for defined benefit pension plans that provide for ongoing accruals, but that have been closed to new participants for plan years beginning before 2020.

The Operational Compliance List is available at: https://www.irs.gov/retirement-plans/operational-compliance-list.