Hardships Becoming Less Hard to Take

By: Alex Mattingly on March 9, 2018 on graydon.law

Buried within last month's Budget Bill were three changes that will be important to both plan participants and employers starting in 2019. Generally, the changes will make it easier for plan participants to acquire funds through a hardship withdrawal. The Bill does not mandate employers to make any changes, but employers might want to amend their current plans to allow participants to take advantage of the more liberal rules that will take effect in January of 2019.

The Bill makes hardship withdrawals easier to access by both broadening the eligible resources from which a participant can make a hardship withdrawal, as well as eliminating barriers to hardship withdrawals that participants had previously faced. Under the new guidelines, funds from QNECs (qualified non-elective contributions), QMACs (qualified matching contributions), and 401(k) safe harbor plan contributions, as well as earnings on these contributions, have all become eligible sources for participants to tap into when making a hardship withdrawal. Plan participants will now face fewer restrictions to making contributions and making a hardship withdrawal. The former rule that barred participant contributions within 6 months of taking a hardship withdrawal and the rule that disallowed a hardship withdrawal if the plan participant could access available loans under the plan have both been eliminated.

Since these new rules are not effective until plan years beginning on or after January 1, 2019, employees have time to take action. In order to take advantage of these new rules, plans will need to be amended. We anticipate regulations being issued later this year and will update the blog with more information then.