

401(K) HARDSHIP DISTRIBUTION GUIDELINES

Internal Revenue Service, Treasury

§ 1.401(k)-1

Rules applicable to hardship distributions – (i) Distribution must be on account of hardship. For the purposes of this rule, a distribution is made on account of hardship only if the distribution both is made on account of an immediate and heavy financial need of the employee and is necessary to satisfy the financial need.

(ii) Limit on maximum distributable amount – A distribution on account of hardship must be limited to the maximum distributable amount. The *maximum* distributable amount is equal to the employee's total elective contributions as of the date of distribution. (The amount available for hardship distribution is limited to the employee contributions made via payroll deduction, not the employer 4%)

Deemed immediate and heavy financial need. A distribution is deemed to be on account of an immediate and heavy financial need of the employee if the distribution is for:

- (1) Expenses for (or necessary to obtain) medical care for employee, employee's spouse, children or dependents;
- (2) Costs directly related to the purchase of a principal residence for the employee (excluding mortgage payments);
- (3) Payment of tuition, related education fees, and room and board expenses, for up to the next 12 months post-secondary education for the employee, or the employee's spouse, children or dependents;
- (4) Payments necessary to prevent eviction of the employee from the employee's principal residence or foreclosure on the mortgage on that residence;
- (5) Payments for burial or funeral expenses for the employee's deceased parent, spouse, children or dependents;
- (6) Expenses for the repair of damage of the employee's principal residence that would qualify for the casualty deduction under section 165. (See below)

*Distribution necessary to satisfy financial need may **not exceed the amount of the need.*** A distribution is treated as necessary to satisfy an immediate and heavy financial need of an employee only to the extent the **amount of the distribution is not in excess of the amount required to satisfy the financial need.** For this purpose, the amount required to satisfy the financial need may include any amounts necessary to pay any federal, state or local income taxes or penalties reasonably anticipated to result from the distribution.

Complete DOCUMENTATION FOR HARDSHIP DISTRIBUTION is required and must be submitted with the Payout Request Form and is subject to approval by the Plan Administrator.

SECTION 165. LOSSES (US Tax Code)

General Rule

There shall be allowed as a deduction any loss sustained during the taxable year and not compensated for by insurance or otherwise. Think major damage here, your home being impacted by a natural disaster such as mud slide, flood, hurricane or tornado.

Limitation on losses of individuals

Losses of property not connected with a trade or business or a transaction entered into for profit, if such losses arise from fire, storm, shipwreck, or other casualty, or from theft.

Amount of Loss

The amount of the loss shall not exceed the uncompensated amount determined on the basis of the facts existing at the date the taxpayer claims the loss.

401(k) HARDSHIP DISTRIBUTION DETERMINATION

Hardship distributions are made in response to an immediate and heavy financial need determined by an event test using the "safe harbor standard". The following requirements must be met before this standard is applied:

- The amount of the distribution does not exceed the amount necessary to relieve the financial need;
- The participant does not make employee elective deferral contributions to the plan for at least 6 (six) months after the hardship distribution is received.

Please Note: For hardship withdrawals you are only eligible to receive funds from your pre-tax contributions. In other words, only monies that you have put into the plan are available. No employer funds (4% employer contribution) can be withdrawn.

Your hardship distribution request must fall under one of the following reasons or other sources need to be sought for funds.

A Hardship Distribution Can be Made for Any One of the Following Reasons

Please make your selection by circling one of the following numbers:

1. Payment of *medical care expenses* previously incurred by the participant or the participant's spouse or dependents, including expenses necessary to obtain medical care.
2. Costs related to the *purchase* of a participant's *principal residence* (not to include mortgage payments).
3. Payment of *tuition, related educational fees, and room and board expenses* for the next 12 months of *post-secondary education* for the participant or the participant's spouse, children or dependents.
4. Payments necessary to prevent *eviction from or foreclosure on* a mortgage on the participant's *principal residence*.
5. Payment of burial or funeral expenses for your deceased parent, spouse or children.
6. Expenses for damage repair to your principal residence that would qualify for the casualty deduction under Code Section 165 (Any loss sustained during the tax year *and not compensated for by insurance* or otherwise. Copies of Code Section 165 are available in the Benefits Dept.)

Required Documentation Needed to Accompany Election Form for Exact Dollar Amount

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| • Medical Expenses | Copies of bills and insurance claim forms |
| • Principal Residence Purchase | Copy of purchase agreement |
| • Education | Copy of bills for tuition, related fees and room and board |
| • Foreclosure | Copy of foreclosure papers. |
| • Burial Expenses | Copy of bill from funeral home. |
| • Damage Repair Principal Residence | Copy of insurance company deduction cost and repairs not compensated for by insurance company. |

Other Actions/Sources Suggested for Funding

- Emergency Assistance Program **Leech Lake Band of Ojibwe Enrollees Only**
- Stop employee elective deferral contributions
- Liquidate all reasonable assets (boats, savings accounts, certificates of deposit, etc)
- Obtain a loan from a commercial lending institution.

I have reviewed the above information regarding an election for a hardship distribution. I understand the two requirements, which need to be followed when electing a hardship distribution. Furthermore, my financial need clearly falls under the reason I have circled above.

Participant Signature _____

Date _____