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More Retirement Plan Help for Hurricane Victims

By Sheila Ninneman

Hurricane Irma and Hurricane Maria victims get the same relief given to Hurricane Harvey victims

The Internal Revenue Service (IRS), Pension Benefit Guaranty Corporation (PBGC) and Department of Labor (DOL) announced relief for victims of Hurricane Irma and Hurricane Maria that mirrors the relief provided for victims of Hurricane Harvey only weeks earlier. The relief includes easier access to loans and hardship withdrawals, and the extension of certain deadlines. For a full description of the relief generally provided for victims of the three hurricanes by the three agencies.

The relief provided is for participants (or their spouse, child, parent, grandparent or dependent) whose principal residence or place of employment on September 4, 2017 was in one of the Florida counties identified by the Federal Emergency Management Agency (FEMA) as being eligible for assistance from FEMA. Our recent article also provides a link to FEMA's list. In Notice GA-2017-02, the IRS extended the relief to all counties in Georgia with the relevant date listed as September 7, 2017. The relief for Irma victims was also extended to Puerto Rico and the Virgin Islands in News Releases PR 2017-01 and VI 2017-01 with September 5, 2017 listed as the relevant date. The IRS relief for victims of Hurricane Maria in Puerto Rico and the Virgin Islands was announced in News Releases PR 2017-02 and VI 2017-02 with the relevant date of September 16, 2017.

With respect to Hurricane Irma, the IRS relief is described in Announcement 2017-13, while the PBGC relief is addressed in Disaster Relief Number 17-12. The DOL's announcement regarding Irma is here. With respect to Hurricane Maria, the IRS relief can be found here, while the PBGC relief is addressed in Disaster Relief Numbers 17-13, 17-14 and 17-15, which are found here. The DOL's response to Hurricane Maria can be found here.

Additional relief announced for victims of both Hurricane Harvey and Hurricane Irma

On September 12, 2017, the IRS, DOL and PBGC announced jointly in Notice 2017-49 additional employee benefit plan relief for victims of both Hurricane Harvey and Hurricane Irma. The Notice can be found here. The additional relief includes an extension to January 31, 2018 for affected single-employer pension plans (other than a Cooperative and Small Employer (CSEC) plan) to make their minimum required contribution, assuming that their due date falls between the "incident date" (August 23, 2017 for Texas counties impacted by Hurricane Harvey and September 4, 2017 for Florida counties impacted by Hurricane Irma) and January 31, 2018. Similar extensions are provided for a plan's due date for making an election relating to such plan's prefunding balance or funding standard carryover balance, the due date for certification of the adjusted funded target attainment percentage (AFTAP), and the notice requirements after a plan becomes subject to benefit limitations relating to plant shutdown or other unpredictable contingent event benefits and after the date it is determined or presumed that the plan's AFTAP is less than 60 percent.

A plan is considered an "affected" plan if any of the following were located in one of the areas identified for individual assistance by FEMA: the principal place of the employer maintaining the plan, the principal place of business of employers that employ more than 50 percent of the active plan participants, the relevant office of the plan or the plan administrator, the office of the plan's primary record keeper, or the office of the plan's enrolled actuary.

Notice 2017-49 also included some relief for CSEC and multiemployer plans.

Congress acted recently to provide still more relief to hurricane victims

The relief was provided in the Disaster Tax Relief and Airport and Airway Extension Act of 2017, which was signed into law on September 29, 2017. In addition to providing certain temporary tax benefits to the victims of Hurricanes Harvey, Irma and Maria, the bill provides an exception to the 10-percent early retirement plan withdrawal penalty for qualified hurricane relief distributions, and increases the limit on qualified plan loans from \$50,000 to \$100,000. The bill also permits recontribution of plan withdrawals for home purchases cancelled on account of the hurricanes.

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