

JANUARY 3, 2020**HARDSHIP DISTRIBUTIONS -
FINAL REGULATIONS ISSUED AND PLAN AMENDMENTS NEEDED**

At the beginning of 2019 we prepared an Alert summarizing changes that Congress and the IRS have made to the rules governing hardship distributions from 401(k) and 403(b) plans. (That Alert can be found [HERE](#)). As explained in this Alert, many of the changes could voluntarily be adopted for 2018 and 2019, while other changes become mandatory starting in 2020. After our hardship changes Alert was published, the IRS formally issued final regulations. The final regulations don't impact the description of the changes outlined in our 2019 Alert. So you can still utilize it to get a good picture of them.

If your plan permits hardship distributions, you are legally required to adopt a plan amendment reflecting the final regulations. The deadline for adopting plan amendments is December 31, 2021. Between now and the time you amend your plan document, you may (and, in some cases, must) follow the new hardship distribution rules in "operating" your plan. You will need to keep careful track of how you operate your plan so that, when a hardship amendment is prepared, it will accurately reflect what you have done.

If we draft your plan documents for you, we will be contacting you about the need to adopt the legally-required plan amendments reflecting the new hardship regulations. If your plan was adopted using a pre-approved 401(k) plan document maintained by this Firm, we will address the hardship plan amendment at the same time your plan is restated under the IRS 6-year restatement cycle. We expect the IRS to open up that restatement cycle in the second half of 2020. Stay tuned as we will be providing an update on this for you in the near future. For those of you with individually designed retirement plans or 403(b) plans that we have drafted for you, we will be contacting you in early 2020 if your plan permits hardship distributions.

Finally, we've gotten enough questions about hardship distributions in general that we thought it might be useful to collect both the questions and the answers in one place. Those Q&A's can be found [HERE](#). We hope this is useful to you.

If you have any questions regarding the new hardship regulations or the need to adopt plan amendments, please do not hesitate to contact Eric Namee, Steven Smith, Brad Schlozman or Ruhe Rutter at (316) 267-2000.

WICHITA

1617 N. Waterfront Pkwy, Ste. 400 ~ Wichita, KS 67206-6639

OVERLAND PARK

6800 College Blvd., Ste. 600 ~ Overland Park, KS 66211-1533