

# PENSION AND EMPLOYEE BENEFIT PLANNING

## HURRICANE KATRINA PENSION PLAN RELIEF SUMMARY

### Summary Pension Provisions of the Katrina Emergency Tax Relief Act of 2005

#### HARDSHIP DISTRIBUTIONS

1. Plan sponsors may allow "Katrina Hardship Distributions" even if the plan document does not contain hardship provisions and/or only allows the statutory reasons for a hardship distribution.
2. Individuals eligible for the "Katrina Hardship Distributions" are defined as persons whose principal place of abode on August 28, 2005 was located in a Hurricane Katrina disaster area and who suffered an economic loss due to the hurricane. The economic loss can be that of the participant, parents, grandparents, children or grandchildren.
3. The 10% early withdrawal penalty is waived for qualified Hurricane Katrina distributions made from an eligible retirement plan to a qualified participant between August 25, 2005 and December 31, 2006.
4. The mandatory required 20% income tax withholding does not apply to qualified Hurricane Katrina distributions.
5. Qualified Katrina distributions are limited to a total of \$100,000 to any participant in that participant's lifetime from all plans of the Employer.
6. The "Katrina Hardship Distributions" may be repaid. Individuals are allowed to repay the distribution to any plan that allows rollovers at any time during three years after receipt.
7. If not repaid, covered participants will be allowed to pay the tax on the distribution over a three year period. Beginning with the year of the distribution, participants may report as income 1/3 of the distribution each year.
8. Employers and Plan Administrators may rely on the representations from the employee or former employee as to the need and amount of hardship withdrawal, unless the Employer has actual knowledge to the contrary. The usual documentation to support the hardship withdrawal will not be required at this time, but the plan adminis-

trator must make, as soon as practical, a reasonable attempt to assemble the currently foregone documentation.

9. Katrina Hardship Distributions may not be made from earnings on 401k deferrals, QNEC and QMAC accounts or from a defined benefit or money purchase pension plan, which generally cannot make in-service distributions.
10. Katrina Hardship Distributions may be made from Individual Retirement Accounts (IRAs).
11. Normally, after the receipt of a hardship distribution, the employee is prohibited from making 401k deferrals for 6 months. That prohibition has been waived for Katrina Distributions.

#### PARTICIPANT LOANS

1. Plan sponsors may allow participant loans related to Hurricane Katrina if the sponsor amends the Plan within the time period allowed.
2. For plans with existing loan provisions, the Act provides some changes for the Katrina related loans. For new loans made to qualified individuals made between September 23, 2005 and January 1, 2007:
  - A. The maximum outstanding loan amount is increased to the smaller of 100% of the participant's vested account balance or \$100,000.
  - B. Loans for Katrina related losses and needs will be considered one of the "safe harbor standards" for an allowable plan loan.
  - C. Payment on Katrina loans may be delayed for one year.
3. For qualified individuals with an outstanding loan on August 25, any payment due between August 25, 2005 and December 31, 2006 may be delayed for one year. Interest will continue to accrue and the usual five year pay back period will be waived for these loans.
4. Plans must be amended to incorporate any of the loan and hardship changes used by the Plan sponsor by the end of the plan year beginning on or after January 1, 2007.



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