Tax Extensions and Relief for Victims of Recent Hurricanes

Millions of Americans were affected by Hurricanes Harvey, Irma, and Maria. If you count yourself among those impacted, or have loved ones who were located in the hurricanes disaster areas, tax extensions and tax relief are available.

Tax Extensions

Shortly after Hurricanes Harvey, Irma, and Maria, the IRS announced extensions for filing certain tax and information returns and for making certain tax payments to January 31, 2018 for individuals and businesses located within a federally declared hurricane disaster area. That includes additional time to file for those in the affected areas with a valid 2016 tax extension who were scheduled to file on October 16, 2017. The IRS automatically provides filing and penalty relief to any taxpayer with an IRS address of record located in the disaster area, so there is no need to contact the IRS for an extension. If you are unsure about whether you live in a hurricane disaster area visit the 'Tax Relief in Disaster Situations' page of IRS.gov.

Tax Relief

In addition, on September 29, 2017, the President signed the Disaster Tax Relief and Airport and Airway Extension Act of 2017. It provides a package of tax relief to the victims of Hurricanes Harvey, Irma, and Maria, and includes access to penalty-free distributions prior to age 59 ½ from IRAs, 401(k)s, and other employer-sponsored qualified retirement plans (QRPs), the ability to spread the income taxes from the distributions over three years, and the opportunity for affected individuals to repay the distributions to their retirement accounts over three years. In addition, it expands certain loan and hardship distribution provisions for 401(k)s and other QRPs. It is similar to previous disaster relief legislation that was enacted after Hurricanes Katrina, Rita, and Wilma in 2005.

Qualified Hurricane Distributions From Retirement Accounts

Qualified Hurricane Distributions are available to you if your principal place of residence is in a Hurricane Harvey, Irma, or Maria disaster area and you have sustained an economic loss caused by the hurricane.

If you have not sustained an economic loss, you will not qualify for tax relief under this legislation.

Penalty-Free Distributions of up to $100,000

Hurricane taxpayers younger than age 59½ may take Qualified Hurricane Distributions from IRAs, 401(k)s and other employer-sponsored QRPs without being assessed the 10% early withdrawal penalty (or the additional 25% penalty for distributions taken in the first two years from SIMPLE IRAs).

Qualified hurricane distributions for Hurricanes Harvey, Irma, and Maria must be made by December 31, 2018 and are limited to $100,000 in total, taken in one or more distributions. You and your spouse can each take up to $100,000 from your own retirement accounts. There are no restrictions on how the distributed funds are used and the law does not specifically limit the amount of the distribution to the amount of the damage caused by the hurricane. If you live outside of the disaster area but have a business, work for an employer, or have family members inside the disaster area, you may not take Qualified Hurricane Distributions.

Taxes from Qualified Hurricane Distributions Can Be Spread Over Three Years

Qualified Hurricane Distributions are taxed ratably over a three tax-year period beginning with the tax year of the distribution, unless you choose to pay the taxes in the year you receive it. For example, if you take a distribution in 2017, you will include the distribution in equal installments on your 2017, 2018, and 2019 income tax returns.

Distributions you receive that are in excess of the $100,000 limitation, would be subject to the usual retirement account withdrawal rules where the distribution is taxable in the year received and may also be subject to the 10% (or 25%) early withdrawal penalties.

The earliest date to qualify for a hurricane distribution will depend on which hurricane impacted you.

Dates of Retirement Account Distributions Eligible for Hurricane Tax Relief		
Hurricane	Taken On or After:	Taken By:
Harvey	August 23, 2017	December 31, 2018
Irma	September 4, 2017	December 31, 2018
Maria	September 16, 2017	December 31, 2018

Repayment of Qualified Hurricane Distributions Permitted

You also have three years following the date of the distribution to repay all or part of the distribution, in one or more contributions, without being subject to the one rollover per-year limitation or the 60-day rollover requirement.

The repayments can be made to any retirement account to which you could have rolled over the original distribution. Amounts that are repaid are treated as a qualified rollover and are not included in income. If you already paid income tax on your Qualified Hurricane Distribution and then later repay the funds to your retirement account, you will be able to file an amended tax return or returns to recover the taxes that you paid.

Keep in mind there are certain exceptions for the repayments. You cannot repay the following types of distributions:

1. Qualified Hurricane Distributions received as a beneficiary (other than a surviving spouse) from an inherited IRA.

2. Required Minimum Distributions (RMDs).

3. Pension or systematic payments for:
- a) A period of 10 years or more,
- b) Your life or life expectancy, or
- c) The joint lives or joint life expectancies of you and your beneficiary.

Repayment of Amounts for Failed Home Purchases

If you received a distribution from an IRA or qualified plan to acquire a residence earlier this year, the new law also permits repayment of certain qualified distributions taken by homebuyers, who as a result of Hurricanes Harvey, Irma, or Maria, were unable to use the distributed funds to purchase or construct a residence. A qualified distribution means any distribution received between March 1, 2017 and Sept. 20, 2017 which was to be used to buy or build a principal residence in the Hurricane Harvey, Irma, or Maria disaster areas – if the purchase or construction didn't occur due to the hurricanes.

Any repayment for a failed home purchase must be completed by February 28, 2018. You may roll over the distributed funds to any IRA or qualified plan otherwise eligible to receive a rollover of a direct distribution to the taxpayer – without regard to the usual rollover rules.

Special Rules for 401(k) and Other Employer-Sponsored QRPs

Employer-sponsored QRPs are not required to allow you access to your retirement plan assets through in-service non-hardship distributions, hardship withdrawals, or loans. If your plan does, under the recent hurricane tax relief certain conditions have been relaxed. In addition, employers who have not in the past allowed employees to have access to in-service distributions, hardship withdrawals, or loans can do so now if the employer intends to amend the plan, even before the plan is formally amended to specifically allow such withdrawals.

Qualified Hurricane Distributions

As described above, Qualified Hurricane Distributions are exempt from the 10% early withdrawal penalty, the income tax can be spread ratably over 3 years, and employees may repay all or a portion of up to $100,000 in hurricane distributions to any eligible retirement account within 3 years of the distribution. Distributions that result from separation from service, in-service distributions, or hardship withdrawals can qualify as Qualified Hurricane Distributions if they meet the conditions discussed above. While tax law generally requires a plan to withhold 20% from distributions paid to a participant that would otherwise be eligible for rollover to other plans or IRAs, Qualified Hurricane Distributions are exempt from this 20% withholding requirement.

Hardship Distributions

If your retirement plan allows for hardship distributions, employers can expand the reasons that are normally necessary to meet a hardship. Any hardship arising from Hurricanes Harvey, Irma, or Maria can be treated as an "unforeseeable emergency" for hardship distributions if the withdrawal is made by January 31, 2018 for employees and certain members of their families who live or work in hurricane disaster areas. Some of the documentation a plan would normally require before a distribution is made can be disregarded to expedite the hardship distribution.

Loan Limits Increased and Repayment Period Lengthened

If your retirement plan allows for loans, the maximum loan amount is increased from $50,000 to $100,000 (or 100% of the vested account balance if less than $100,000) for any loan made to a hurricane taxpayer through January 31, 2018. The relief also permits a one year delay on remaining payments otherwise due on loans to hurricane taxpayers. However, the plan must increase the amount of interest on the loan to reflect the delay in payments.

To be eligible, plan participants and certain family members must live or work in a Hurricane Harvey, Irma, or Maria disaster area. Even if a plan participant lives outside the disaster area, these liberalized loan and hardship distribution provisions apply to assisting a child, parent, grandparent or other dependent who lives or works in the disaster area.

Liberalized Charitable Deduction Rules

Perhaps you were unaffected by the recent hurricanes, but you have generously donated to those that were. Under the normal rules, an individual's itemized deductions for donations to public charities during a year cannot exceed 50% of AGI. Amounts that exceed this ceiling (excess contributions) can be carried forward for five years. The new law allows itemized deductions for qualified contributions by an individual to be as much as 100% of AGI and exempts them from the deduction phase-out rule that can apply to high-income individuals.

A qualified contribution means any charitable contribution that is made between August 23, 2017 and Dec. 31, 2017 for relief efforts in the Hurricane Harvey, Irma, or Maria disaster areas. The donor must obtain a written statement or acknowledgement from the charitable organization to show the contribution was used or will be used for such relief efforts. Qualified contributions that exceed 100% of AGI can be carried forward for five years.

Help for Those That Need It

In the aftermath of the hurricanes, you or your loved ones may have suffered major losses and may not know how to pay for the damages. Benjamin F. Edwards is here to help you during this tough time. We can work with your tax professional to help you navigate different options for accessing retirement assets you may not realize you can tap into. Contact your Benjamin F. Edwards financial advisor for additional information. ■

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