

# Katrina Emergency Tax Relief Act

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President Bush has signed the Katrina Emergency Tax Relief Act of 2005, a statute containing a number of retirement plan provisions meant to provide relief for hurricane victims.

### **Special Treatment for Qualified Hurricane Katrina Distributions**

#### No Early Distribution Excise Tax

The new law exempts from the early distribution excise tax distributions up to \$100,000, in the aggregate, for "qualified Hurricane Katrina distributions." For purposes of determining the aggregate amount, distributions from all plans maintained by an employer (and any member of the controlled group including the employer) may not exceed \$100,000.

#### Three-Year Repayment Period

Any individual who receives a "qualified Hurricane Katrina distribution" may, at any time during the three-year period beginning on the day after the date of a distribution, make one or more contributions in an aggregate amount not to exceed the amount of the distribution to any plan in which the individual is a participant or beneficiary and which would otherwise be eligible for a rollover contribution of the distribution. Repayments will be treated as though they are direct trustee to trustee transfers.

#### "Qualified Hurricane Katrina Distribution"

A "qualified Hurricane Katrina distribution" is any distribution from an eligible retirement plan made on or after August 25, 2005, and before January 1, 2007, to an individual whose principal place of abode on August 28, 2005 was located in the Hurricane Katrina disaster area and who has sustained an economic loss as a result of the hurricane. An eligible retirement plan is any IRA, a qualified plan's trust, an annuity plan, an eligible 457(b) deferred compensation plan, and a 403(b) annuity.

#### Income Recognition Over Three Years for "Qualified Hurricane Katrina Distributions"

"Qualified Hurricane Katrina distributions" are included in gross income ratably over a three-taxable year period beginning with the taxable year of distribution, unless the taxpayer chooses to include the entire amount in income in

the taxable year of distribution.

### **Repayment of Certain Hardship Distributions**

Any individual who received a hardship distribution from a 401(k) plan or a 403(b) plan for the purpose of purchasing or constructing a principal residence in the Hurricane Katrina disaster area after February 28, 2005 and before August 29, 2005 may re-contribute the distribution amount to an eligible retirement plan between August 25, 2005 and February 28, 2006.

### **Participant Loan Rules Relaxed**

The limitation on aggregate principal loan amounts from a qualified plan providing for participant loans is raised from \$50,000 to \$100,000 and the 50% of vested accrued benefit limitation is removed through 2006 where the loan is taken out by a "qualified individual." A "qualified individual" is one whose principal place of abode on August 28, 2005 was located in the Hurricane Katrina disaster area and who sustained an economic loss due to the hurricane. If a "qualified individual" had an outstanding participant loan balance on August 25, 2005, repayment of the amounts due before 2007 are extended for one year and all additional payments are adjusted accordingly. Further, the five-year repayment period for the loan of a "qualified individual" is disregarded.

### **Plan Amendments Not Currently Required**

Plans are permitted to comply with the withdrawal, repayment, hardship and loan provisions immediately and need not be amended until the first day of the 2007 plan year or a later date that the Secretary of the Treasury might proscribe.

If you have questions or would like assistance with bringing your deferred compensation arrangements into compliance, please contact a member of the Benefits Law Group of Holland & Hart LLP.

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