

# eBenefits Alert: Impact of the New Tax Law on Qualified Retirement Plans – Hardship Withdrawals

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The new tax act, known as the Tax Cuts and Jobs Act (TCJA) signed into law on December 22, 2017 made significant changes to the tax code. Mostly it does not affect qualified retirement plans, but there are noteworthy exceptions: plan loans, definition of compensation, and hardship withdrawals.

Here's an explanation of the third one - hardship withdrawals:

- **Hardship Withdrawals**. The Bipartisan Budget Reconciliation Act signed into law a couple months after the TCJA made changes to the hardship withdrawal rules for 401(k) and 403(b) plans. The changes ease restrictions on access to hardship withdrawals and will be effective after 2018. They include:
  - elimination of the six-month suspension period on making elective contributions following a hardship withdrawal,
  - elimination of the requirement to exhaust plan loan options before taking a hardship withdrawal, and
  - expansion of the types of plan contributions from which hardship withdrawals may be made to include QMACs, QNECs, safe harbor contributions, and earnings (including post-1988 earnings on elective deferrals).

**What should you do?** Be aware that the application of the law isn't yet entirely clear. Gray Plant Mooty will be tracking IRS guidance, which is likely to come out in the next several months. We hope it will clarify how the new rules will apply, and we think you may have some choices in implementation. If you have a pre-approved plan, your plan provider will probably contact you about plan amendments to effect these



changes. Be sure to ask about changes that you need to make to your procedures. If you have an individually designed plan, contact your benefits attorney. No action should be required yet, but you will want to make sure you understand the law changes and any choices you may have in its implementation.

For more information or questions, contact your attorney in the Employee Benefits & Executive Compensation Practice Group at Gray Plant Mooty.

Read about plan loans [here](#) and definition of compensation [here](#).