



Digging into Disaster Distributions

Disaster relief included in government funding bill.

March 2020

KEY POINTS

- The government funding bill provides for disaster relief for federally declared disasters equivalent to that provided for California wildfires. There are very narrow time ranges when the disaster must begin and be declared.
- Plans seeking to take advantage of these new provisions must amend by close of the plan year beginning on or after January 1, 2020 (or later as the IRS specifies). Governmental plans have an additional two years.

The SECURE Act was not the only retirement legislation enacted with the government funding bill on December 20, 2019. The bill also included a new retirement-related provision authorizing additional disaster distributions from retirement plans.

Disaster relief for those suffering losses in the California wildfires was provided in the Bipartisan Budget Act of 2019. The new disaster provisions in the government funding bill is intended to provide equal treatment to victims of disasters other than the California wildfires.

At first glance, plan sponsors might be tempted to dismiss these provisions as a confusing rehash of disaster hardship rules, but these new provisions provide a new distribution type and additional relief well beyond the expanded hardship regimen.

The new disaster provisions are very tightly drawn to focus on disasters and losses during a very narrow time frame and plans seeking to implement the

provisions may need to act promptly to take advantage of the provisions in operation.

Which disasters can trigger the new provisions?

Only federally declared disasters other than California wildfires trigger any of the special benefits under these new disaster distribution provisions. In addition, the disasters must have begun **before December 20, 2019** (date of enactment) and must have been **declared between January 1, 2018 and February 18, 2020** (60 days after enactment). Note that recent Puerto Rico disasters will not give rise to disaster distributions under this provision because the disasters had not begun as of December 20, 2019.

What disaster-related benefits can plans provide under the new provisions?

The provisions allow four benefits for certain individuals who have losses from qualified disasters.

1. Plans can allow penalty-free “qualified disaster distributions” of up to \$100,000 per disaster (less prior qualified disaster distributions).
2. Plans can allow a re contribution of amounts withdrawn to purchase or construct a principal residence if the amounts are not used for that purpose due to a qualified disaster.
3. Plans can increase their loan limits for qualified individuals with the result that loans can be provided up to the lesser of \$100,000 or 100% of the total vested account balance, reduced for outstanding loans taken in the prior 12 months.
4. Plans can extend the due date on certain loans to qualified individuals and can reamortize without taking the extension into account for the five-year or level reamortization rule.

Disaster distributions

Individuals who resided in a disaster area at any time during the “incident period” of a disaster covered by this provision and who suffered an economic loss “by reason of” the disaster are eligible for a qualified disaster distribution. The incident period is that period of time (beginning no earlier than January 1, 2018 and ending no later than January 18, 2020 (30 days after enactment) during which the disaster occurred. A qualified disaster distribution can only be **made from the first day of the incident period through June 17, 2020** (180 days after enactment).

Qualified disaster distributions are limited to \$100,000 per disaster. That amount is diminished by disaster distributions that have previously been made (for all prior years) for that disaster from the same plan or plans sponsored by employers within the control group.

For three years following the distribution, these qualified disaster distributions may be repaid to any plan or IRA that accepts rollover contributions of “such a distribution” (This language suggests that plans can decline to receive rollover contributions of disaster distributions, but we will need guidance to confirm that interpretation.) If repayment is made, it is treated as a trust-to-trust transfer made within 60 days of the original distribution.

As noted, disaster distributions are exempt from early withdrawal penalties. In addition, these distributions are **not** considered eligible rollover distributions, so no 402(f) notice is required, and the amounts are not subject to mandatory 20% withholding. Individuals who receive these distributions may include them in income over three years.

Re contribution of previously withdrawn amounts

If a participant took a hardship distribution from a plan for purchase or construction of a principal residence in a “qualified disaster area” and the funds cannot be used for that purpose “on account of” the qualified disaster, those amounts **can be re contributed anytime from the first day of the incident period until June 18, 2020** (180 days after enactment). In order to be eligible for re contribution, the original distribution must have been received during a period which is no more than 180 days before the incident period and no more than 30 days after the incident period.

Increase in loan limits

Loans made from December 20, 2019 through June 18, 2020 (180 days after enactment) are eligible for increased limits if made to “qualified individuals.” Qualified individuals are those whose principal residence is located in a qualified disaster area at any time during the incident period for that disaster and who suffers an economic loss from the disaster. (The statutory language does not require that the economic loss be linked to the principal residence.)

If an individual is a qualified individual, the maximum loan limit equals the lower of \$100,000 (reduced by outstanding loans during the prior 12 months) or 100% of the individual's vested balance.

Delayed loan repayments and interest accrual

For qualified individuals with an outstanding loan on or after the first day of the incident period, the act provides certain relief. First, if the loan due date occurs anytime from the beginning of the incident period to June 18, 2020 (180 days after enactment), the due date is delayed one year or, if later, until June 18, 2020. Second, any loans eligible for an extended due date can be reamortized, and the permissible delay in payment is disregarded for purposes of calculating the five-year maximum period or complying with level amortization principles.

Remedial amendment period

Unlike SECURE, the disaster distribution provisions of the government funding bill may be subject to a much shorter remedial amendment period. Any plan seeking to institute these distribution provisions must be amended by the end of the plan year beginning on or after January 1, 2020, or such later time as may be prescribed in regulations. Governmental plans will have an additional two years after that date. As always, for any retroactive amendment, the plan must have been operated in accordance with the amendment since the amendment's effective date.

Supporting disaster distributions

T. Rowe Price is prepared to support new disaster distributions. Plan administrators interested in adding the provisions should contact their T. Rowe Price representative for more information.

A CRITICAL YEAR

SECURE presents plan sponsors with a rich selection of provisions to consider, making 2020 an ideal year to rethink plan design strategy.

For questions about these retirement provisions, contact your T. Rowe Price representative.

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