MERCER

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Effective January 1, 2019

Mercer Wise Administrative Provisions for Recent Changes to Hardship Distribution Rules

The Bipartisan Budget Act of 2018 (BBA) modified the rules applicable to "safe harbor" hardship distributions from 401(k) plans, effective on January 1, 2019 for calendar year plans like yours. The Internal Revenue Service subsequently issued proposed regulations on November 9, 2018, providing some guidance on the implementation of these modifications.

Below is a general description of the updated hardship distribution rules, and how they will be administered under your Mercer Wise 401(k) Plan^{SM}. Although these rules are subject to change based on the final regulations, we do not expect any significant modifications. Pending release of the final regulations, we understand plan sponsors may rely on the proposed rules.

At a future date, we will provide you with amendments to the Mercer Prototype Defined Contribution Plan, along with a summary of material modifications, to reflect these new rules.

1. Elimination of the Six Month Suspension Requirement

Implementing a requirement of the BBA, the proposed regulations prohibit plans from imposing a suspension of elective and employee contributions following a hardship distribution. Eliminating the suspension period will become mandatory for distributions made on or after January 1, 2020 but may be implemented as soon as January 1, 2019. For any hardship distributions that are still subject to suspensions, the rules allow the suspensions to be cut short and not run their full course.

Mercer Wise 401(k) plan administration – Your plan's recordkeeper supports the mandatory elimination of the suspension period. As such, the suspension period has been **eliminated**, and any hardship suspensions that may still be in progress will end as soon as administratively feasible at the time of transition to Mercer Wise.

You as Plan Sponsor are required to inform participants currently on suspension of this change and ensure Mercer has the proper deferral percentage on the system.

2. Elimination of the Need to Exhaust Loan Availability

Before taking a hardship distribution, participants will no longer be required to first obtain all nontaxable loans currently available under all of the employer's plans. Participants will continue to be required to exhaust all other available withdrawal or distribution rights prior to requesting a hardship distribution.

Mercer Wise 401(k) plan administration – The loan condition, which is no longer an IRS safe harbor requirement, has been eliminated.

3. Earnings on Elective Deferrals are Available for Hardship Distributions

Hardship distributions of elective deferrals may now include attributable earnings on such contributions. Formerly, earnings available for distribution were limited to certain grandfathered amounts.

Mercer Wise 401(k) plan administration – Under your plan's terms, elective deferrals are eligible for hardship distributions. All earnings accumulated on these elective deferrals (including Roth deferrals, if applicable) are also available.

4. **Qualified Non-elective contributions (QNEC), Qualified Matching contributions (QMAC) and Safe Harbor Employer Contributions are Available for Hardship Distributions**

   Hardship distributions may now include QNEC, QMAC, and safe harbor employer contributions, including attributable earnings.

   Mercer Wise 401(k) plan administration – Under your plan's terms, all eligible contribution accounts are available for hardship distributions. As such, QNECs, QMACs, and safe harbor employer contributions (if applicable), including attributable earnings, are also available.

Other Important Information

New Expense Safe Harbor for Losses in Federal Disasters

The proposed regulations added a new safe harbor category specific to an employee's expenses and losses (not limited to casualty) incurred due to a federally declared disaster where the employee's principal residence or principal place of employment is located.

Mercer Wise 401(k) plan **administration** - Your plan's recordkeeper has implemented this new expense safe harbor.

Update to Casualty-Loss Safe Harbor:

A current expense safe harbor pertains to expenses to repair damage to a participant's principal residence that would qualify for a casualty loss deduction under Code §165. To address an unintended consequence of the Tax Cuts and Jobs Act of 2017, which limited deductible casualty losses to those caused by a federally declared disaster, the proposed rules clarify that the deductibility restriction will not apply for purposes of the hardship rules.

Mercer Wise 401(k) plan administration – The deductibility restriction will not apply to hardship distributions.

If you have any questions or would like to discuss the application of these rules to your retirement plan, please contact your Mercer Wise Team.