

# ADVISORY

## Congress Modifies Retirement Plan Rules for Victims of Hurricane Katrina

The Katrina Emergency Tax Relief Act of 2005 has been signed into law and provides three broad forms of relief: special rules for accessing retirement plan assets; tax credits for employers; and charitable giving incentives. This advisory focuses on the retirement plan changes. For information about additional retirement plan relief previously issued by the IRS and the DOL, please see our advisory "[IRS and DOL Provide Benefits Relief for Victims of Hurricane Katrina.](#)"

**Distributions:** Various forms of retirement plans and arrangements (including profit sharing and 401(k) plans, 403(b) arrangements and IRAs) may make "Qualified Hurricane Katrina Distributions" of up to \$100,000. A Qualified Hurricane Katrina Distribution is a distribution made after August 24, 2005 and before January 1, 2007 to an individual whose principal place of abode on August 28, 2005 was in an area declared by the President to be a major disaster area before September 14, 2005 and who has sustained an economic loss as a result of the hurricane (the "Hurricane Katrina Disaster Area").

Such a distribution is not subject to the 10% early withdrawal excise tax and is generally taxable over a three-year period. In addition, the distributee may repay all or a portion of the distribution (and claim a refund for any taxes previously paid) within three years, making the withdrawal economically equivalent to an interest-free loan.

**Loans:** Disaster victims may also take a loan prior to January 1, 2007 from a qualified plan in an amount up to the lesser of (i) \$100,000, reduced by the highest outstanding loan balance in the prior twelve months, or (ii) the individual's accrued benefit. In addition, and for a limited period of time, such persons need not make any repayments of a plan loan for one year (although interest on the outstanding loan must continue to accrue in the interim), and the repayment period for the loan may be delayed by up to one year.

**Recontributions:** Finally, any individual may re contribute all or a portion of the amount received as a hardship distribution (or as an IRA first-time homebuyer distribution) between March 1, 2005 and August 28, 2005 that was to be (but in fact was not) used to purchase or construct a principal residence in a Hurricane Katrina Disaster Area. The re contribution must be completed by February 28, 2006.

### IF YOU WOULD LIKE ADDITIONAL INFORMATION, PLEASE CONTACT:

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Plan Amendments: Calendar year plans must be amended by December 31, 2007 in order to implement any of these special features.

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If you would like additional information about any of these issues, please feel free to contact a member of the Benefits Practice Group.