

## New Hardship Provisions to Take Effect

First, your plan should require completion of a hardship application and supporting documentation that reasonably demonstrates the occurrence of the hardship event, the financial need, and the dollar amounts involved. Assuming that your plan uses the safe harbor for deeming that the participant lacks other resources to satisfy the financial need, no documentation on this point will be required. (Under the safe harbor, the participant must have obtained all currently available plan distributions--including loans and ESOP dividends--and must be prohibited from making any deferrals or after-tax contributions for at least six months after receiving the hardship distribution.) You should retain all hardship applications and supporting documentation in the plan files so that they are available to support the plan's decision in the event of an audit or dispute.

Here are our suggestions of appropriate supporting documentation for each of the six permitted events.

**Medical Expenses for Participant or Dependent.** We suggest that you require a copy of the health care provider bill, along with an insurance company benefit statement denying coverage for at least the amount being requested. If the expense has not yet been incurred, you could require a signed letter from a doctor or other health care provider verifying the need for treatment and the approximate cost.

**Purchase of Principal Residence.** We recommend requiring a copy of the signed purchase agreement.

**Twelve Months Tuition and Related Costs.** We suggest requiring either a bill or a letter from the educational institution, verifying enrollment of the participant or the participant's dependent. The bill or letter should include actual or estimated costs of tuition, room, board, and related expenses.

**Payments to Prevent Eviction or Foreclosure.** For this event, we think you should require a copy of the formal legal document giving notice of the eviction or foreclosure that is required under applicable state law. Generally, a legal notice would state that if the overdue rent or mortgage payment were not received by a specified deadline, formal eviction or foreclosure proceedings would be instituted.

**Burial or Funeral Expenses.** This is one of the new safe harbor events permitted under the final regulations. We recommend requiring copies of the death certificate and the bill from the funeral home showing costs of the burial or funeral.

**Repair to Employee's Principal Residence Qualifying as a Casualty Deduction.** This is the other new safe harbor event permitted under the final regulations. We suggest requiring evidence of the casualty (a description or photograph), a copy of the repair bill, and proof that insurance proceeds did not cover the amount of the casualty expense claimed as a hardship.

For more detailed information, please contact us at [info@randall-hurley.com](mailto:info@randall-hurley.com).