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IRS Issues Guidance on Withdrawals for Domestic Abuse Victims

In late June, the IRS issued a notice providing critical guidance on early withdrawal penalty exemptions under the SECURE 2.0 Act. The law includes significant provisions for individuals experiencing domestic violence, an issue that has affected millions across the U.S.

According to the Centers for Disease Control and Prevention (CDC), one in four women and one in seven men will experience physical violence from an intimate partner at some point in their lives. Annually, more than 5 million incidents of domestic violence are reported among women aged 18 and older, with another 3 million reported involving men. The IRS's new guidance aims to offer some financial relief to those affected.

The notice states that victims of domestic abuse can now withdraw funds from their retirement plans without incurring the usual early withdrawal penalty. To qualify, the withdrawal must be made within one year of the individual being victimized by domestic abuse from a spouse or domestic partner.

The notice further elaborates on several key points:

- **Definition of domestic abuse victim distributions.** The guidance provides a clear definition of what constitutes domestic abuse for the purpose of these distributions: "Physical, psychological, sexual, emotional, or economic abuse, including efforts to control, isolate, humiliate, or intimidate the victim, or to undermine the victim's ability to reason independently, including by means of abuse of the victim's child or another family member living in the household."

- **Eligible retirement plans.** The IRS specifies that IRAs and certain retirement plans not subject to spousal consent requirements under sections 401(a)(11) and 417 are eligible for these distributions.

- **Dollar limitation.** The notice provides that a domestic abuse victim can withdraw up to $10,000 from an "applicable eligible retirement plan," adjusted for inflation, and states that the distributions should follow the same rules that apply to qualified birth or adoption distributions. Accordingly, an individual has up to three years from the day after receiving a domestic abuse victim distribution to repay the amount "to an applicable eligible retirement plan in which the individual is a beneficiary and to which a rollover can be made."

The notice also provides that taxpayers are permitted to receive a distribution from an eligible retirement plan to meet unforeseeable or immediate financial needs related to necessary personal or family emergency expenses. Distributions are considered compliant with 401(k) plan distribution restrictions — plan sponsors can permit funds from elective deferrals, qualified nonelective contributions, qualified matching contributions and safe harbor contributions to be included in both emergency personal

expense and domestic abuse victim distributions. The guidance further notes that allowing these distributions is optional for the plans.

This new IRS statement represents a significant step in supporting domestic abuse victims, providing them with a means to access necessary funds during times of crisis without the added burden of financial penalties.

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The High Cost of Financial Stress in the Workplace

According to the results of a 2024 American Psychiatric Association mental health poll, 43% of adults reported higher subjective feelings of anxiety than they did the previous year. Respondents indicated feeling anxiety related to a number of issues, but high on the list were the economy (77%) and paying bills or expenses (63%). These concerns were on par with worries about their health (63%), keeping themselves or their family safe (68%) and gun violence (69%).

According to ComPsych, the world's largest provider of employee assistance programs, anxiety is the No. 1 presenting issue of employees seeking counseling, exceeding self-referrals for depression, stress, relationship issues, family issues, addiction and grief. The direct consequences of untreated anxiety impact both employees and employers alike.

Referencing MetLife's annual U.S. Employee Benefit Trends Study, SHRM notes that "financial concerns and a persistently high cost of living — which other reports suggest are causing a significant number of employees to live paycheck to paycheck — are the top reasons for poor mental health among employees in 2024, cited by 45 percent." As a result, costs for employers are rising as well. According to ComPsych, employee leaves of absence resulting from mental health issues have surged by an astounding 300% from 2017 to 2023, with durations ranging from just a few days to several weeks. Absenteeism and resulting losses in productivity can be significant for organizations.

These alarming statistics underscore the critical need for employers to prioritize financial wellness programs as part of a holistic benefits offering. This can include financial planning workshops, budgeting tools and debt management programs. In particular, access to one-on-one sessions with financial advisors can provide personalized guidance and support for employees struggling with financial stress.

To further support employees' financial well-being, organizations can also consider offering resources such as emergency fund assistance programs and student loan repayment plans. The SECURE 2.0 Act authorized the establishment of pension-linked emergency savings accounts (PLESAs), or short-term savings accounts maintained as part of a worker's retirement plan. Available for plan years beginning after Dec. 31, 2023, plan sponsors may auto-enroll their employees into PLESAs, make employee contributions to PLESAs through payroll deductions and provide matching contributions. Employers may set a contribution limit of up to $2,500, which participating employees can withdraw without the penalties associated with drawing funds from their retirement

account.

By equipping workers with the necessary resources to manage their finances effectively, employers can help alleviate some significant drivers of poor mental health in their employee pool. This investment not only supports the well-being of employees but also benefits organizations by fostering a more engaged and productive workforce and helping to reduce costs associated with mental health-related absences.

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Overcoming Challenges in HR and Benefits Departments

Employees in the HR and benefits departments handle many responsibilities, such as managing a company's health care benefits or supervising the retirement plan. As a result, it’s common for these employees to experience times of overwhelm, stress, and burnout.

It is crucial for plan sponsors, who are frequently overseeing these teams, to understand the difficulties that HR and benefit departments encounter daily, and to avoid compromising their fiduciary duties to these workers.

According to a recent HR Executive study titled "What's Keeping HR Up at Night?" Over 350 HR leaders were surveyed, and 76% of them reported that their level of stress worsened in 2023. Of them, 25% stated the increase was significant. When asked what was causing them stress, many HR directors mentioned having to deal with a larger task with a lack of people or having insufficient resources. Another major stressor was the expectation to "do more with less."

Director of total rewards at the Alaska Native Tribal Health Consortium, Rachel Huber Christman, leads the nonprofit’s benefits, compensation, and HR software teams. Considering the scale of the nonprofit, Christman adds that although her teams have expanded over time, the benefits team is still fairly small. According to Christman, the benefits department operated entirely on paper until 2019. As a result, enrollments required individuals to visit the office and complete paperwork. According to Christman, switching to online enrollment has increased productivity and relieved her team of some of the administrative load.

Christman says, “I try to make sure that my team [is not] pushing work-life balance in the way of PTO time.” “Obviously if you can plan for it, that’s even better … When you’re at home, be at home, don’t be thinking about work. One of my senior [colleagues] on compensation often says, ‘Yes, what we do is important—we impact people’s paychecks and their lives with retirement and benefits, but we’re not brain surgeons.’”

Christman stresses that rather than waiting for staff members to approach HR with questions, members of the benefits team should be proactive, meet with employees, and explain the organization's advantages. If Christman notices that some team members haven't taken time off in a while, she encourages them to do so to prevent burnout among the staff.

Christman adds that team members must pay attention to detail and maintain alertness while working. “If you enter a Social Security number wrong or if you don’t understand all the nuances of plan design, it can get us into trouble quickly,” Christman says. “Being very detail-oriented is probably one of the biggest things I like to see in [job candidates].”

Christman adds that in her position as a plan sponsor, she takes care to avoid compromising her fiduciary duty to her team members. “I don’t want fiduciary liability to fall on any of my people,” Christman says. “As far as making fiduciary decisions, I try very hard, especially at the administrator level, to not blur that line … If you are considered a fiduciary, you can be personally held liable … and I wouldn’t want my lower level [employees] to shoulder any of that burden.”

Specific fiduciary responsibilities should be spelled out in both the plan document and the appointing resolutions, according to T. Rowe Price's "Fiduciary Guide." T. Rowe suggests that plan sponsors should review committee charters, resolutions, plan documents, and other plan governance documents if there is any confusion about who oversees what. They should also create a detailed list of all plan management and administrative activities that separate fiduciary from non-fiduciary activities.

Examples of non-fiduciary duties were outlined in the Fiduciary Guide. These included creating employee communications, figuring out benefits, handling benefit claims, and informing members of their rights and obligations under the plan.

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PARTICIPANT CORNER

Employer Matching – How to Make the Most of Your Plan

Many defined contribution plans include something called employer matching, meaning that your employer contributes a certain amount to your retirement savings plan based on your personal contribution. In 2024, individuals can contribute up to 23,000 into their 401(k) according to SEC guidelines, but, when combined with employer matching, the cap comes to 69,000 per year. If you are over 50, you are allowed to contribute an extra 7,500 a year as “catch up.” It is also important to be aware of your employer's vesting schedule which dictates your ownership in employer contributions based on years of employment – if you are terminated, contributions made by your employer can be forfeited based on this schedule.

Employers use various match formulas to determine their contribution, but we have highlighted three common scenarios that show the importance of knowing the facets of your retirement plan.

Example 1: Match 100% of contributions up to a percentage of your total compensation

- Dollar-for-dollar matching where, if you make $50,000 and they contribute up to 6% of your salary, they will add in $3,000 if you contribute 3,000.
- If you contribute 4,000, they only add 3,000.
- If you contribute 2,000, they add 2,000, not 3,000.

Example 2: Match 50% of contributions up to 6% of salary

- If you make 50,000 and contribute 3,000, which is 6% of your salary, your employer adds in 1,500.

Example 3: Match up to a certain dollar amount

- Will match up to 5,000. This means, that even if you are making 20,000 vs 80,000, the maximum amount you get in matching contribution is 5,000.
- If you contribute 4,000, your employer only contributes 4,000.

We will leave you with this: If you are not making annual contributions to your retirement account, you are missing out on employer additions to your accounts.

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