



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
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MEMORANDUM FOR EMPLOYEE PLANS (EP) EXAMINATIONS EMPLOYEES

FROM: Lisa J. Beard /s/ *Lisa J. Beard*
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SUBJECT: Computation of Maximum Loan Amount under IRC § 72(p)(2)(A) –
Revised

This memorandum supersedes interim guidance TE/GE-04-0417-0016 entitled *Computation of Maximum Loan Amount under IRC § 72(p)(2)(A)*, issued April 20, 2017.

This memorandum directs EP Examinations staff to determine, as set forth below, the amount available for a loan where the participant has received multiple loans during the past year from a qualified plan, under § 72(p)(2)(A) of the Internal Revenue Code (IRC).

This is not a pronouncement of law and is not subject to use, citation, or reliance as such. Nothing herein shall affect the operation of any other provision of the IRC, Treasury Regulations, or guidance thereunder.

Background

In general, IRC § 72(p)(1) provides that a loan from a plan will be treated as a distribution to the participant. IRC § 72(p)(2)(A) excepts a loan that when added to the outstanding balance of all loans, does not exceed the lesser of:

- (i) \$50,000, reduced by any excess of
 - (I) the highest outstanding balance of loans during the 1-year period ending on the day before the date on which such loan was made, over
 - (II) the outstanding balance of loans on the date on which such loan was made; or
- ii) the greater of
 - (I) half of the present value of the vested accrued benefit, or
 - (II) \$10,000.

Under IRC § 72(p)(2)(A)(i), if the initial loan is less than \$50,000, the participant generally may borrow another loan within a year if the aggregate amount does not exceed \$50,000. The \$50,000 is reduced by any outstanding loan balance, and then again reduced by the excess of the highest outstanding balance of loans during the 1-year period ending the day before the second loan is made, over the outstanding balance on the date of the second loan.

The discussion above assumes that to meet other IRC § 72(p)(2) requirements, the participant has a vested accrued benefit of more than \$100,000, and the loan is repayable in 5 years and requires substantially level amortization.

For example, a participant borrowed \$30,000 in February which was fully repaid in April, and \$20,000 in May which was fully repaid in July, before applying for a third loan in December. The plan may determine that no further loan would be available, since $\$30,000 + \$20,000 = \$50,000$. Alternatively, the plan may identify “the highest outstanding balance” as \$30,000, and permit the third loan in the amount of \$20,000.

Administrative Guidelines

If during an examination you determine that a qualified plan made two or more loans to the same participant during a 1-year period, take the following action: Determine if the plan has computed “the highest outstanding balance” in one of the two ways described in the above example. If it has, no further inquiry is needed into whether the loan satisfies section IRC § 72(p)(2)(A).

Effect on Other Documents

This directive will be incorporated into IRM 4.71.1.4 by July 26, 2019, unless superseded by other guidance.

Effective Date

This memo applies to exams open on and after the date of issuance.

Point of Contact

For questions regarding this memo, contact Mike Talley, Senior Reviewer EP Mandatory Review, at 214-413-5532.

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