



## **Hurricane Sandy Relief**



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# Eric Slack

**Tax Law Specialist**

**IRS Employee Plans Technical Guidance**



# Questions

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- [RetirementPlanQuestions@irs.gov](mailto:RetirementPlanQuestions@irs.gov)



# Announcement 2012-44

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- A qualified employer plan is allowed to make a loan or a hardship distribution for a need arising from Hurricane Sandy.



# Covered Disaster Areas

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- <http://www.irs.gov/uac/Newsroom/Help-for-Victims-of-Hurricane-Sandy>



# Loans and Distributions

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- Things to keep in mind
  - Loan and distribution rules vary by plan type
  - Revenue Rulings and other guidance may serve to further clarify Internal Revenue Code and Regulations sections
  - Plans **MUST** contain language authorizing any loan or distribution



# Relief

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- Points to consider
  - Arising from Hurricane Sandy
  - Principal residence or place of employment in an area covered by disaster designation
  - Lineal ascendant or descendant
  - Representations made by employees



# Limitations

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- A plan that is not permitted to make in-service distributions still can't
- Plans are not **REQUIRED** to allow for loans or in-service distributions





# Limitations

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- Loans or distributions must be made on or after October 26, 2012, and no later than February 1, 2013.
- Plans that currently do not allow for loans or in-service distributions must be amended to allow them.



# Limitations

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- Section 72(t)
  - Nothing in the Announcement changes the effect of 72(t) penalties
- Section 72(p)
  - Any plan loan must comply with section 72(p)



# Documentation

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- Plan administrators may rely upon representations as to need and amount of a hardship distribution, unless they have actual knowledge to the contrary
- Good-faith, diligent effort to obtain documentation, where required
- “Reasonable Belief” test



# Title I

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- The Department of Labor has advised Treasury and the Internal Revenue Service that it will not treat any person as having violated Title I of ERISA solely for complying with the provisions of Announcement 2012-44