



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

OFFICE OF THE CHIEF COUNSEL

July 2, 2018

Number: **2018-0024**
Release Date: 9/28/2018

CC:TEGE:QP4:
GENIN-119910-18

UIL: 457.07-02

Dear _____ :

I am responding to your email dated April 16, 2018, concerning your difficulty in obtaining a withdrawal from your employer's Section 457 plan to pay for repairs. In your email, you ask if the plan can refuse your withdrawal request.

Section 457 plans are retirement plans set up by certain employers, including state and local governments, to provide a means for employees to contribute part of their pay towards their retirement. To help ensure funds in the plan are available at retirement, Section 457(d) of the Internal Revenue Code prohibits early withdrawals from the plan while still employed except when the plan participant is faced with an unforeseeable emergency. Whether a participant satisfies the plan's rules for a withdrawal is determined by the plan administrator.

Some people affected by Hurricane Irma were helped by the Disaster Tax Relief and Airport and Airway Extension Act of 2017. This law authorizes retirement plans, including Section 457 plans, to make distributions to individuals who suffered an economic loss because of Hurricane Irma. These distributions, which have to be made before January 1, 2019, are eligible for favorable tax treatment. See IRS Publication 976, Disaster Relief, (which can be found on our website at IRS.gov) for more information.

A Section 457 plan is not required to make special distributions on account of Hurricane Irma, and even if it does, the plan may impose conditions on obtaining a distribution. If you feel you have been wrongly denied a distribution, you may be able to appeal the denial through the plan's appeal procedures.

I hope this information is helpful. If you have additional questions, please call me or
at .

Sincerely,

Joyce Kahn
Branch Chief, Qualified Plans Branch 4
(Employee Benefits)
(Tax Exempt and Government Entities)