



OFFICE OF THE CHIEF COUNSEL

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

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Dear _____ :

I am responding to your email dated February 20, 2019, concerning obtaining a loan from your 401(k) plan. In your email, you say IRS laws prevent you from getting a "hardship" loan from the plan.

Many retirement plans such as 401(k) plans allow participants to take loans from their plan accounts, following the rules in Section 72(p)(2) of the Internal Revenue Code. Section 72(p)(2) permits plans to offer loans to plan participants of up to half of their account balance for 5 years (longer if a home loan). However, plans don't have to offer loans to participants, and even if they do, they may restrict them to certain situations, such as "hardship." The IRS cannot force a plan to offer loans or stop a plan from imposing certain restrictions on loans.

Most 401(k) plans allow participants to take a distribution from their account in cases of hardship, such as medical expenses or student loans for themselves or their dependents. But, again, it is up to the plan whether to include such features. You may want to contact the plan administrator to see if hardship distributions are available.

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

Sincerely,

Jason E. Levine
Senior Technician Reviewer
Qualified Plans Branch 4
(Employee Benefits)
(Employee Benefits, Exempt Organizations
and Employment Taxes)