

IRS EXTENDS DEADLINE FOR AMENDING PRE-APPROVED PLANS FOR FINAL HARDSHIP WITHDRAWAL REGULATIONS

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As we reported in a Hodgson Russ Employee Benefits Newsletter article dated September 30, 2019 titled "IRS Publishes Final Hardship Withdrawal Regulations," the final hardship distribution regulations prescribe dates by which individually designed and pre-approved plans must adopt certain amendments to reflect *required* hardship withdrawal rule changes (i.e., the rule change related to the elimination of suspensions of deferrals that are a condition for obtaining a hardship distribution, and the rule change related to obtaining a representation from an employee who requests a hardship distribution that he or she has insufficient cash or other liquid assets reasonably available to satisfy the hardship).

As confirmed in the article in this month's newsletter titled "IRS Publishes 2019 Required Amendments List For Individually Designed Plans," the amendment deadline for individually designed plans (including § 403(b) retirement plans) generally will be December 31, 2021.

For qualified retirement plan sponsors using pre-approved plans, however, we previously reported that the amendment deadline for the *required* hardship distribution rule changes would be the interim amendment deadline generally applicable to pre-approved plans, which might make the amendment deadline somewhat earlier (e.g., due by the tax-filing deadline, plus extensions, for 2020). However, the IRS has now published Revenue Procedure 2020-9 which generally extends the deadline applicable to pre-approved plans to December 31, 2021.

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