



## Flashpoint: IRS Announces 2020 Cost of Living Adjustments to Various Retirement Plan Limits (And Some Comments on the Hardship Regulations)

The IRS just released the cost of living adjustments for various retirement plan limitations that will take effect on January 1, 2020. Many of the limits will be increasing for 2020. The key limits that increased (shown below in ***bold italics***) include the compensation that is taken into account for plan purposes, the salary deferral limit, and the total amount that can be contributed on behalf of any participant in a defined contribution (including 401(k)) plan. The 2020 and prior year limits are as follows:

	For Calendar Year	
	2019	2020
<b>Maximum Defined Benefit Plan Benefit</b> (IRC §415(b)) ( <i>applies to limitation years <u>ending</u> in indicated year</i> )	\$225,000	<b><i>\$230,000</i></b>
<b>Maximum Defined Contribution Annual Addition</b> (IRC §415(c)) ( <i>applies to limitation years <u>ending</u> in indicated year</i> )	\$56,000	<b><i>\$57,000</i></b>
<b>Salary Deferral Limit</b> (IRC §402(g))	\$19,000	<b><i>\$19,500</i></b>
<b>Catch-up Limit</b> for 401(k), 403(b), 457 plans ( <i>applies to <u>calendar</u> year</i> )	\$6,000	<b><i>\$6,500</i></b>

<b>HCE Compensation</b> <i>(applies to lookback years in indicated year)</i>	\$125,000	<b>\$130,000</b>
<b>Maximum Compensation for Retirement Plan Purposes</b> (IRC §401(a)(17)) <i>(applies to plan years <u>beginning</u> in indicated year)</i>	\$280,000	<b>\$285,000</b>
<b>Key Employee: Officer</b>	\$180,000	<b>\$185,000</b>
<b>Key Employee: 1% Owner</b>	\$150,000	\$150,000
<b>Social Security Taxable Wage Base for OASDI Contributions</b>	\$132,900	<b>\$137,700</b>
<b>457(b) Contribution Limit</b>	\$19,000	<b>\$19,500</b>
<b>SIMPLE Salary Deferral Limit</b>	\$13,000	<b>\$13,500</b>
<b>SIMPLE Catch-up Limit</b>	\$3,000	\$3,000
<b>IRA Contribution Limit</b>	\$6,000	\$6,000
<b>SEP Threshold</b>	\$600	\$600
<b>ESOP: 5-year Distribution Factor</b>	\$225,000	<b>\$230,000</b>
<b>ESOP: Account Balance</b>	\$1,130,000	<b>\$1,150,000</b>
<b>Premiums for QLACs</b>	\$130,000	<b>\$135,000</b>

If you have any questions, please let us know.

### The Skinny on the Hardship Regulations

We know you have received about a gazillion newsletters about the new hardship regulations. We thought we would wait until the smoke cleared to send you our quick summation of what you need to know:

1. **Deferral suspensions:** No plan can require a participant to suspend deferrals due to a hardship distribution that is taken on or after January 1, 2020. You can get rid of the deferral suspension requirement before then. The plan can get rid of the suspension for all participants affected at the time (even if their hardship distributions were taken earlier), or can limit the relief to those who take hardships after the effective date of the change. All plans with hardship distributions must be amended, either in relation to an earlier change or to eliminate the deferral suspension as of January 1, 2020. **This is really important!** Based on recent Treasury comments at a conference, if the

401(k) plan is a preapproved document, the current deadline for this amendment is the tax return due date (including extensions taken) for the employer's tax year that includes January 1, 2020. This means that, for a C Corporation that files its income taxes on a calendar year basis, the plan amendment is due by April 15, 2021, unless the return is extended. However, for a partnership with a fiscal year ending January 31, the deadline is April 15, 2020. This is right around the corner! ASPPA has filed a comment letter with the IRS asking for a fixed date. News at 11. Individually designed documents must be amended by the end of the second year following the appearance of this issue on the Required Amendments List—likely to happen at the end of 2019, so by December 31, 2021.

2. **All money sources available for hardship.** Plans may permit hardship distributions from earnings, QNECs, QMACs, and safe harbor contribution sources. No need to keep track of historic deferrals. Plans can continue to be restrictive if they want. Amendment needed (see-above).

403(b) plans: be careful. 403(b) plans cannot distribute earnings, and 403(b) plans funded through custodial accounts holding mutual funds cannot distribute employer contributions.

3. **"I've got no other way to pay for this."** To demonstrate that the hardship withdrawal is necessary, every requesting participant must represent in writing that he/she does not have cash or other liquid assets to satisfy the need. The employer may rely on this to grant the hardship (subject to the other requirements) unless he/she has actual knowledge to the contrary. So, an employer that really knows the participant has other liquid assets must deny the hardship, unless the employee can explain why those assets are otherwise unavailable.
4. **No need to borrow first.** A participant still must first take all available nonhardship distributions from qualified and nonqualified plans; he/she does not need to take any available loans.
5. **Casualty vs. disaster hardship.** The new regulations modify the casualty loss rules and deem federal disasters to be hardship events. Amendment needed (see above).
  1. *Casualty loss:* The availability of a hardship distribution due to a home casualty loss has always been tied to the Tax Code section allowing tax deduction of those losses. The Tax Cut and Jobs Act changed that section so that these losses are deductible only if the casualty was due to a FEMA-declared disaster. The new regulations decouple the hardship rules from that requirement, so participants can take a hardship distribution for a home loss unrelated to a national disaster.
  2. *Disaster hardship:* Historically, the IRS has issued guidance after nationally declared disasters permitting hardship distributions for expenses related to those disasters. No longer! The new regulations add a deemed hardship event for FEMA-declared disasters. Participants with principal residences or places of employment in the disaster area can take hardship distributions for any expenses or losses related to the disaster, including losses of personal property or income.



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