HARDSHIP DISTRIBUTIONS FACT SHEET

If an employee requests an in-service distribution because of financial hardship, a two-part hardship test must be passed. The employee must:

(1) have an immediate and heavy financial need; and

(2) lack available resources making the withdrawal necessary to satisfy the need.

The determination whether an employee seeking a withdrawal has an immediate and heavy financial need is to be made on the basis of relevant facts and circumstances. The IRS has outlined nondiscriminatory standards for which an application for a hardship withdrawal can be processed:

(1) unreimbursed medical expenses incurred by the employee, the employee's spouse, or the employee's dependents;
(2) purchase of principal residence (but not mortgage payments);
(3) payment of tuition, related educational fees, and room and board expenses for up to the next 12 months of post secondary education for the employee, or the employee's spouse, children, or dependents;
(4) payments necessary to prevent the eviction of the employee from his or her principal residence or the foreclosure of the mortgage on the principal residence;
(5) payment for burial or funeral expenses of the employee's deceased parent, spouse, children, or dependents; and
(6) expenses for the repair of damage to the employee's principal residence that would qualify for the casualty deduction.

The determination of lack of available resources is to be based on all relevant facts and circumstances. The employer is not required to make an independent investigation into the employee's financial situation, but may reasonably rely on the employee's representations that the need cannot be relieved:

(1) through reimbursement or compensation by insurance or otherwise;

(2) by reasonable liquidation of the employee assets;

(3) by ceasing to make elective or employee contributions to the plan; or

(4) by other distributions or **nontaxable loans from the employer plans**, or commercial loans on reasonable terms.

For purposes of showing that the withdrawal is necessary, all resources which are available to the employee must be considered.

****Important Note:** A participant who receives a hardship distribution may not make salary deferral contributions for at least six months after the distribution has been taken. Additionally, he or she may be required to pay a 10% excise tax on the amount withdrawn.