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Final regulations: Rollover rules for qualified plan loan offset amounts

The IRS today posted to its website a version of final regulations (T.D. 9937) concerning the extended rollover period for a qualified plan loan offset (a type of plan loan offset) as enacted by a provision of the U.S. 2017 tax law (Pub. L. No. 115-97) or the law that is often referred to as the “Tax Cuts and Jobs Act” (TCJA).

According to the preamble to today’s [final regulations](#) [PDF 182 KB] (24 pages), regulations that were proposed in August 2020 are being finalized “with one important modification relating to the applicability date.”

Today’s version of the final regulations includes the following statement:

This document is in the process of being submitted to the Office of the Federal Register (OFR) for publication and will be pending placement on public display at the OFR and publication in the Federal Register. The version of the final regulations released today may vary slightly from the published document if minor editorial changes are made during the OFR review process. The document published in the Federal Register will be the official document.

Summary

The TJCA contains a provision that extends the period allowed for a qualified plan loan offset amount to be contributed to an eligible retirement plan as a rollover contribution from 60 days to the due date, including extensions, for filing the federal income tax return for the tax year the loan offset occurs. This extension applies to a qualified plan loan offset amount distributed from a qualified retirement plan, section 403(b) plan, or governmental section 457(b) plan solely because of a termination of the plan or the failure to meet the repayment terms because of a severance from employment.

In August 2020, Treasury and the IRS proposed regulations as guidance in a “question and answer” (Q&A) format about the rules for the extended rollover period for a qualified plan loan offset. In response to the proposed regulations, Treasury and the IRS received one written comment, and there was no request for a public hearing and none was held.

The preamble to the final regulations states that after considering the comment, the final regulations adopt the proposed regulations with one important modification relating to the applicability date. These regulations apply to plan loan offset amounts—including qualified plan loan offset amounts—treated as distributed on or after January 1, 2021. Thus, for example, the rules in Reg. section 1.402(c)-3 will first apply to 2021 Form 1099-Rs required to be filed and furnished in 2022. However, taxpayers (including a filer of a Form 1099-R) may apply these regulations with respect to plan loan offset amounts, including qualified plan loan offset amounts, treated as distributed on or after August 20, 2020.

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