

## **Reform Pension Board Q&A for Hardship Withdrawals**

### **1. Under what circumstances can a participant receive a hardship distribution from the Reform Pension Board (RPB)?**

In accordance with IRS regulations, the Reform Pension Board's pension plan (the Plan) provides for hardship distributions from the account of a participant having an immediate and heavy financial need based on criteria as explained in the RPB material (See Q&A-6 below). Rabbi Trust accounts are not eligible sources for taking hardship withdrawals. As per IRS rules, the Plan must specify and apply nondiscriminatory and objective standards.

### **2. What is the IRS definition of hardship?**

Hardship withdrawals from the RPB pension plan must be made on account of an immediate and heavy financial need of the participant, and the amount must be necessary to satisfy the financial need. The need of the participant includes the need of the participant's spouse or dependent.

Under the provisions of the Pension Protection Act of 2006, the need of the participant also may include the need of the participant's non-spouse, non-dependent beneficiary.

Whether a need is immediate and heavy depends on the facts and circumstances. Certain expenses are deemed to be immediate and heavy, including: (1) certain medical expenses; (2) costs relating to the purchase of a principal residence; (3) tuition and related educational fees and expenses; (4) payments necessary to prevent eviction from, or foreclosure on, a principal residence; (5) burial or funeral expenses; and (6) certain expenses for the repair of damage to the participant's principal residence. A financial need may be immediate and heavy even if it was reasonably foreseeable or voluntarily incurred by the participant.

A distribution is not considered necessary to satisfy an immediate and heavy financial need of a participant if the participant has other resources available to meet the need, including assets of the participant's spouse and minor children. Whether other resources are available is determined based on facts and circumstances. Thus, for example, a vacation home owned by the participant and the participant's spouse generally is considered a resource of the participant, while property held for the participant's child under an irrevocable trust or under the Uniform Gifts to Minors Act is not considered a resource of the participant.

A hardship distribution can be provided to satisfy an immediate and heavy financial need of a participant if: (1) the participant has obtained all other currently available distributions under the Plan and any other Plan; and (2) the participant is prohibited, under the terms of the Plan or an otherwise legally enforceable agreement, from making elective salary deferrals to the Plan and any other Plan for at least six months after receipt of the hardship distribution.

A hardship distribution may not exceed the amount of the participant's need. However, the amount required to satisfy the financial need may include amounts necessary to pay any taxes or penalties that may result from the distribution.

### **3. How does a participant show that he or she is experiencing a hardship?**

The Reform Pension Board specifies what information must be provided to demonstrate a hardship. The RPB uses the "deemed necessary" rules described in Q&A-2 above, so that inquiry into the participant's financial status is not required. The RPB may generally rely on the participant's representation that he or she is experiencing an immediate and heavy financial need that cannot be relieved from other resources. However, the RPB cannot rely on a participant's representation if the RPB has actual knowledge that the participant's need can be relieved: (1) through reimbursement or compensation by insurance; (2) by liquidation of the participant's assets; (3) by stopping elective contributions or participant contributions under the Plan; (4) by other currently available distributions under the RPB or other Plans; or (5) by borrowing from commercial sources.

However, a participant is not required to take counterproductive actions. For example, the need for funds to purchase a principal residence cannot reasonably be relieved by a Plan loan (from a Plan other than the RPB) if the loan would disqualify the participant from obtaining other necessary financing.

### **4. What is the maximum amount that can be distributed as a hardship distribution from an RPB pension account?**

The distribution amount must be limited to the amount of the immediate and heavy financial need, including the amount necessary to pay any taxes resulting from the distribution.

Additionally, the distribution amount cannot exceed 75% of the participant's RPB account balance at the time the distribution is made.

### **5. What are the consequences of taking a hardship distribution from an RPB pension account?**

After a participant receives a hardship distribution from the RPB, IRS rules prohibit the participant from making elective salary deferral contributions to the Plan for at least six months after receipt of the hardship distribution.

Hardship distributions from the RPB Plan are includible in gross distributions and will be taxable income. The distribution would also be subject to a 10% penalty tax on an early withdrawal if the participant is under the age of 59 ½. Hardship distributions can't be repaid to the Plan. Thus, a hardship distribution permanently removes funds from the participant's account balance under the Plan. A hardship distribution cannot be rolled over into an IRA or another qualified Plan.

**6. How can a participant request a hardship withdrawal from the RPB pension plan?**

- a. Read the RPB Hardship Withdrawal Information Memo
- b. Read the RPB Hardship Withdrawal Requirement Rules
- c. Fully complete and return the RPB Hardship Withdrawal Request Form with your supporting documentation, signed Release Letter and notarized Marital Status and Spousal Consent Form attached to the RPB office:

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