IRS Guidelines – Hardship Distributions

The following are reasons a hardship distribution can be taken to satisfy an "immediate and heavy financial need":

- Expenses for medical care previously incurred by the employee, the employee's spouse, dependents or is now necessary for these persons to obtain medical care;
- Costs directly related to the purchase of an employee's principal residence (excluding mortgage payments);
- Tuition, related educational fees and room and board expenses for the next 12 months of postsecondary education for the employee, or the employee's spouse, children, dependents;
- Payments necessary to prevent the eviction of the employee from the employee's principal residence or mortgage foreclosure;
- Funeral expenses for the employee, the employee's spouse, children, dependents; or
- Certain damage repair expenses for the employee's principal residence.

Under IRS rules, a distribution is deemed necessary to satisfy an immediate and heavy financial need of an employee if all of the following requirements are satisfied:

- The distribution is not greater than the amount of the employee's immediate and heavy financial need (this may include any amounts necessary to pay any federal, state or local income taxes or penalties reasonably anticipated to result from the distribution).
- The employee has obtained all distributions, other than hardship distributions, and all nontaxable (at the time of the loan) loans currently available under all of an employer's plans.
- The terms of the plan prohibit the employee from making elective contributions and employee contributions to the plan and all other plans maintained by the employer for at least six months after the hardship distribution.

Consequences of taking a hardship distribution from a 403(b) plan?
After an employee receives a hardship distribution of elective contributions from his or her 401(k) plan, the employee will be prohibited from making elective contributions and employee contributions to the plan and all other plans maintained by the employer for at least 6 months after receipt of the hardship distribution. (Reg. §1.401(k)-1(d)(3)(iv)(E)(2))

Hardship distributions are includible in gross income. In addition, they may be subject to an additional tax on early distributions of elective contributions (typically subject to regular income tax and a 10% penalty tax). Unlike loans, hardship distributions are not repaid to the plan. Thus, a hardship distribution permanently reduces the employee's account balance under the plan. A hardship distribution cannot be rolled over into an IRA or another qualified plan. (Code § 402(c)(4))