IRS code allows for hardship distributions from 401(k) plans, but the plan document must expressly provide for such distributions. Hardship distributions are subject to limitations and guidelines. What are these guidelines?

- Plan participants must be actively employed by the plan sponsor, even if they are under 59 ½.

- The distributions must be made based on immediate and heavy financial need of the participant, and is determined based on the individual circumstances of each case. A plan's guidelines may include a safe harbor set of guidelines to clarify what circumstances qualify for a hardship distribution. For example, an actual eviction or foreclosure proceeding, or expenses for medical care.

- The distribution cannot exceed the amount necessary to satisfy the need that cannot be met reasonably by other resources. A plan must define what is necessary. For example, a plan may specify that before qualifying for a hardship withdrawal, all available distributions and nontaxable loans must be already taken.

- The funds available for hardship withdrawal are generally restricted to the participant's elective contributions from the point of inception into the Plan. There are some exceptions to this general rule that allow hardship withdrawals from Employer contributions.

- Depending upon plan guidelines, the employee may be prevented from making any elective contributions for six months.

Most 401(k) plans allow hardship distributions only upon satisfaction of the safe harbor rules. If you are regularly receiving requests for hardship distributions that cannot be granted under the safe harbor rules, it may be appropriate to consider the use of other standards that may be more helpful to your employees.