

Pension ANALYST

Important Information

New Legislation

April 2006



GOZA Extends KETRA Relief To Victims of Hurricanes Rita and Wilma

WHO'S AFFECTED This relief is available to sponsors of qualified plans, ERISA 403(b) plans, and governmental section 457 plans whose participants were directly affected by Hurricanes Rita and Wilma. It is also available to affected participants in non-ERISA 403(b) programs.

BACKGROUND AND SUMMARY On December 21, 2005, President Bush signed into law the Gulf Opportunity Zone Act of 2005 (GOZA). This law extends the Katrina Emergency Tax Relief Act of 2005 (KETRA) distribution and plan loan relief to individuals located in the federally-declared Hurricane Rita and Hurricane Wilma disaster areas.

As a result, an individual is eligible to take a “qualified hurricane distribution” from a profit sharing plan (including a section 401(k) plan), money purchase pension plan, stock bonus plan, defined benefit plan, 403(b) arrangement, governmental section 457 plan, or traditional IRA if:

- His principal place of abode:
 - On September 23, 2005, was located in the Hurricane Rita disaster area; or
 - On October 23, 2005, was located in the Hurricane Wilma disaster area; and
- He sustained an economic loss as a result of Hurricane Rita or Hurricane Wilma.

These distributions are subject to the \$100,000 limit that applies to KETRA distributions. They are also eligible for the same special tax treatment as KETRA distributions. As a result, they are included in the individual's income over a three-year period and may be recontributed to an eligible retirement plan within three years of distribution.

In addition, the maximum loan amount for individuals affected by Rita or Wilma is increased to the lesser of \$100,000, or 100% of the participant's vested account balance, for loans taken during the specified time periods. Plan loan repayments due from victims of Hurricanes Rita or Wilma on or after December 21, 2005, and before January 1, 2007, may also be suspended for up to one year.

ACTION AND NEXT STEPS Plan sponsors with employees or former employees in Texas, Louisiana or Florida should review this publication to become familiar with the additional relief available to these individuals. Plan sponsors that wish to make this relief available under their plans or programs should contact their Prudential Retirement representatives.

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Extension of KETRA Relief

In general, an individual is now eligible to take special plan distributions and loans from profit sharing plans (including section 401(k) plans), money purchase pension plans, stock bonus plans, defined benefit plans, 403(b) arrangements, governmental section 457 plans, and traditional IRAs if he is a qualified Hurricane Katrina individual, a qualified Hurricane Rita individual, or a qualified Hurricane Wilma individual.

A “*qualified Hurricane Katrina individual*” is an individual:

- Whose principal place of abode on August 28, 2005, was located anywhere in Alabama, Florida, Louisiana or Mississippi; and
- Who sustained an economic loss as a result of Hurricane Katrina.

A “*qualified Hurricane Rita individual*” is an individual (other than a qualified Hurricane Katrina individual):

- Whose principal place of abode on September 23, 2005, was located anywhere in Texas or Louisiana; and
- Who sustained an economic loss as a result of Hurricane Rita.

A “*qualified Hurricane Wilma individual*” is an individual (other than a qualified Hurricane Katrina individual or a qualified Hurricane Rita individual):

- Whose principal place of abode on October 23, 2005, was located anywhere in Florida; and
- Who sustained an economic loss as a result of Hurricane Wilma.

For purposes of these new provisions, the [IRS has broadened the various disaster area definitions](#) to cover the entire states affected, as noted above.

Qualified Hurricane Distributions

Qualified hurricane distributions, which do not exceed a total of \$100,000 per individual, are eligible for special tax treatment and may be recontributed to eligible retirement plans. A “*qualified hurricane distribution*” is:

- A distribution made on or after August 25, 2005, and before January 1, 2007, to a qualified Hurricane Katrina individual; or
- A distribution made on or after September 23, 2005, and before January 1, 2007, to a qualified Hurricane Rita individual; or
- A distribution made on or after October 23, 2005, and before January 1, 2007, to a qualified Hurricane Wilma individual.

Qualified hurricane distributions:

- Are exempt from the 10% federal income tax penalty on early distributions;
- Are not eligible for rollover, if made from a qualified plan or governmental section 457 plan, and therefore, are not subject to mandatory 20% federal tax withholding;
- Are included in the individual's gross income ratably over a three-taxable year period, beginning with the year in which the distribution occurred, unless the individual elects otherwise; and
- May be repaid within three years to an IRA, a qualified plan, a governmental section 457 plan, or a 403(b) arrangement in which the individual is participating, which is eligible to receive a rollover contribution. The repayment does not have to be made to the same plan or IRA from which the distribution was made.

Special Plan Loan Provisions

Qualified individuals may also take larger loans from qualified plans, 403(b) arrangements, and governmental section 457 plans. The maximum loan amount available to these individuals for loans taken during the applicable period (when added to the outstanding balance of all other loans from the plan), generally cannot exceed the lesser of \$100,000, or 100% of the participant's vested account balance. The "*applicable period*" is defined as follows:

- For qualified Hurricane Katrina individuals: September 24, 2005, through December 31, 2006.
- For qualified Hurricane Rita individuals: December 21, 2005, through December 31, 2006.
- For qualified Hurricane Wilma individuals: December 21, 2005, through December 31, 2006.

In addition, any qualified hurricane individuals who had outstanding plan loans on or after the applicable qualified beginning date may delay for one year any loan repayments due after that qualified beginning date and before January 1, 2007. The applicable "*qualified beginning dates*" are:

- For qualified Hurricane Katrina individuals: August 25, 2005.
- For qualified Hurricane Rita individuals: September 23, 2005.
- For qualified Hurricane Wilma individuals: October 23, 2005.

This delay will not cause the loan to become a taxable deemed distribution. After the one-year period ends, the loan must be reamortized to adjust payments for the new due date and accrued interest. The one year postponement period will be ignored with respect to the term of the loan.

IRS Guidance

The IRS has not yet published formal guidance relating to these provisions of GOZA. However, the IRS' informal guidance ([IRS Publication 4492 "Information for Taxpayers Affected by Hurricanes Katrina, Rita, and Wilma"](#)) suggests that it may be reasonable to apply the guidance provided in Notice 2005-92 and discussed in our February 2006 *Pension Analyst* titled "[IRS Provides KETRA Guidance](#)" to victims of Hurricanes Rita and Wilma by substituting the applicable dates and deadlines provide in GOZA. Similar to other matters discussed in this *Pension Analyst*, this is an issue that plan sponsors should discuss with their own legal counsel.

Plan and Contract Amendments

In general, the deadline for GOZA plan amendments, containing retroactive effective dates equal to the dates the special distribution or loan provisions took effect, is the last day of the first plan year beginning on or after January 1, 2007. For governmental plans, GOZA amendments must be adopted by the last day of the first plan year beginning on or after January 1, 2009. The IRS may establish different amendment deadlines,

if they perceive a need to do so. If Prudential provides document services for your plan, we will work with you to draft the appropriate amendments to reflect these provisions by the appropriate amendment deadline.

Notify Prudential

If you wish to offer GOZA distributions, loans, or loan repayment suspensions under your retirement plan or program, or if you wish to accept recontributions of GOZA distributions under your plan or program, please contact your Prudential Retirement representative before you authorize any such transactions. To ensure that the appropriate tax reporting occurs, we need to be able to identify these transactions in advance. In addition, we have developed new forms to aid in the processing of these transactions.



Compliance Clips

IRS Further Postpones Deadlines for Certain Taxpayers Affected by Hurricane Katrina

In early September 2005, the IRS took immediate action to extend a number of retirement plan compliance deadlines for taxpayers, including both plan sponsors and plan participants, located in a Louisiana parish, Mississippi county, Alabama county or Florida county designated as a Hurricane Katrina “disaster area eligible for individual assistance.” The extension of these deadlines to January 3, 2006, affected taxpayers located in 64 Louisiana parishes, 52 Mississippi counties, six Alabama counties, and three Florida counties.

In late November 2005, the IRS further extended these deadlines to February 28, 2006, and expanded coverage to include an additional 30 Mississippi counties, an additional 16 Alabama counties, and an additional 8 Florida counties.

In early March 2006, the IRS determined that certain parishes in Louisiana and counties in Mississippi, which were hit hardest by Hurricane Katrina, needed additional disaster relief. To that end, the IRS announced a further extension of the already-extended plan compliance deadlines. This additional extension, to **August 28, 2006**, automatically applies to taxpayers in:

- The Louisiana parishes of Cameron, Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles, and St. Tammany; and
- The Mississippi counties of: Hancock, Harrison and Jackson.

The extension to August 28, 2006, is also available to affected taxpayers in other specified Louisiana parishes, and Mississippi and Alabama counties, but only if they identify themselves as needing this relief.

The Pension Benefit Guaranty Corporation (PBGC) has provided the same extension, to August 28, 2006, for “designated persons” located in these hardest-hit parishes and counties with respect to premium filing deadlines and other notice and filing deadlines applicable to defined benefit plans.

A complete description of the IRS compliance deadlines and PBGC deadlines that have now been extended to August 28, 2006, for certain taxpayers can be found in our September 2005 *Pension Analyst* titled “[Hurricane Katrina Affects Retirement Plan Administration](#).”

This additional extension does not apply to victims of Hurricanes Rita or Wilma.

Qualified Hurricane Distributions

	KETRA/GOZA Qualified Hurricane Katrina Distribution	GOZA Qualified Hurricane Rita Distribution	GOZA Qualified Hurricane Wilma Distribution
Eligible Participants	Individuals who: <ul style="list-style-type: none"> • As of August 28, 2005, had their principal place of residence in Alabama, Florida, Louisiana or Mississippi; and • Sustained an economic loss due to Hurricane Katrina. 	Individuals who: <ul style="list-style-type: none"> • As of September 23, 2005, had their principal place of residence in Texas or Louisiana; and • Sustained an economic loss due to Hurricane Rita. 	Individuals who: <ul style="list-style-type: none"> • As of October 23, 2005, had their principal place of residence in Florida; and • Sustained an economic loss due to Hurricane Wilma.
Distribution Period: On or after Before	August 25, 2005 January 1, 2007	September 23, 2005 January 1, 2007	October 23, 2005 January 1, 2007
Dollar Limit	\$100,000 total from all of the participant's qualified plan accounts, 403(b) programs and IRAs; employer must monitor from "controlled group" perspective.		
Taxation			
Inclusion in income	Included ratably over 3-year period beginning with year distributed, unless participant elects to include entirely in year distributed.		
Federal Withholding	Not eligible for rollover; subject to 10% withholding, but can elect no withholding.		
10% Penalty Tax on Early Distributions (§72(t))	Does not apply.		
Repayment Options	May be re-contributed to any retirement program accepting rollovers (does not have to be re-contributed to distributing plan).		
Plan Amendment Requirements	Amendment required in all cases.		
Deadline(s)	General: Last day of first Plan Year beginning on or after January 1, 2007. Governmental Plans: Last day of first Plan Year beginning on or after January 1, 2009.		

Special Hurricane Plan Loans

	KETRA/GOZA: Katrina Loans	GOZA: Rita Loans	GOZA: Wilma Loans
Eligible Participants	Individuals who <ul style="list-style-type: none"> As of <i>August 28, 2005</i>, had their principal place of residence in Alabama, Florida, Louisiana or Mississippi; and Sustained an economic loss due to Hurricane Katrina. 	Individuals who: <ul style="list-style-type: none"> As of <i>September 23, 2005</i>, had their principal place of residence in Texas or Louisiana; and Sustained an economic loss due to Hurricane Rita. 	Individuals who: <ul style="list-style-type: none"> As of <i>October 23, 2005</i>, had their principal place of residence in Florida; and Sustained an economic loss due to Hurricane Wilma.
Loan Grant Date: On or after Before	September 24, 2005 January 1, 2007	December 21, 2005 January 1, 2007	December 21, 2005 January 1, 2007
Dollar Limit	1. \$100,000, minus the difference between <ul style="list-style-type: none"> The highest outstanding loan balance during the last 12 consecutive month period, and The outstanding loan balance on the date the loan is made; or 2. The greater of: <ul style="list-style-type: none"> 100% of the vested account balance, or \$10,000. 		
Repayment Requirements General Purpose Loans	Level installments, payable at least quarterly, within 5 years.		
Principal Residence Loans	Level installments, payable at least quarterly, may extend beyond 5 years.		
	For both types of loans, repayments due on or after 8/25/05 and before 1/1/07 may be postponed for one year, with the one-year postponement disregarded in determining the length of the loan.	For both types of loans, repayments due on or after 9/23/05 and before 1/1/07 may be postponed for one year, with the one-year postponement disregarded in determining the length of the loan.	For both types of loans, repayments due on or after 10/23/05 and before 1/1/07 may be postponed for one year, with the one-year postponement disregarded in determining the length of the loan.
Plan Amendment Requirements	Amendment required in all cases.		
Deadline(s)	General: Last day of first Plan Year beginning on or after January 1, 2007. Governmental Plans: Last day of first Plan Year beginning on or after January 1, 2009.		

Pension Analyst by Prudential Retirement

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