



Puerto Rico Treasury issues relief for Hurricane Maria victims

Who's affected

This information applies to sponsors of defined contribution retirement plans covering Puerto Rico employees including those qualified under the Puerto Rico Internal Revenue Code (Puerto Rico-only plans) and plans qualified under both the United States Internal Revenue Code and the Puerto Rico Internal Revenue Code (dual-qualified plans).

Background and summary

The arrival of Hurricane Maria in September significantly affected individuals and businesses in Puerto Rico. Recognizing this impact, the Puerto Rico Treasury Department (Hacienda) recently issued relief that provides additional access to retirement savings to alleviate hardships caused by the arrival of the hurricane. This relief provides special rules for plan sponsors that want to offer distributions or plan loans to affected employees who reside in Puerto Rico. It also lessens the tax burdens related to these special distributions.

It is important for sponsors of dual qualified plans to note that this relief differs from the U.S. disaster relief. For more information regarding the differences between the U.S. disaster relief and the Puerto Rico disaster relief pertaining to retirement plans, see the [charts](#) included in this publication.

Action and next steps

Plan sponsors should review the information in this publication to determine potential impacts to their plans. If you need more information regarding these special distribution and plan loan opportunities, please contact your Prudential Retirement representative.

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Special rules for distributions and plan loans

Hacienda has provided special rules, allowing Puerto Rico-only or dual-qualified retirement plans to make distributions and plan loans available on a broader basis to “eligible individuals.” An eligible individual is an individual who is considered a resident of Puerto Rico for tax years 2017 and 2018.

Plan sponsors may permit such distributions and loans immediately, as long as they amend their plans to provide for them by December 31, 2018.

Eligible distributions

“Eligible distributions” can be made in the form of a total distribution or partial hardship distribution, but must be made for “eligible expenses” as defined by Hacienda. Eligible distributions may be made for any hurricane-related expenses, not just those hardship reasons listed in existing regulations (i.e., casualty losses, funeral expenses). Hurricane-related expenses include expenses incurred to cover losses or damages related to Hurricane Maria such as expenses for the repair or replacement of a residence, motor vehicle, or generator, purchase of food or fuel, or lodging expenses due to total or partial destruction of a primary residence of the eligible individual, his or her spouse, descendants, or ascendants.

Eligible distributions must be made between September 20, 2017 and June 30, 2018 (the “eligible period”), but it is not necessary for the expenses to be incurred within the eligible period.

Plan administrators are not required to verify that a distribution will be used for eligible expenses, but must verify that the individual is a resident of Puerto Rico based on information provided in an [affidavit](#).

The standard 12-month suspension of contributions following hardship distributions does not apply in these situations.

Refer to the [“Special Hurricane Distributions” chart](#) appearing at the end of this publication for a comparison of the special distribution provisions available under the Puerto Rico Internal Revenue Code (PR IRC) and United States Internal Revenue Code (US IRC).

Special tax rules for eligible distributions

The following special tax rules apply to eligible distributions:

- The first \$10,000 distributed during the eligible period is exempt from income tax and the alternate basic tax (ABT) under the PR IRC. Therefore, this amount would not be subject to Puerto Rico income tax withholding.
- Distributions in excess of the first \$10,000 are subject to a flat 10% income tax rate with **mandatory** 10% withholding. If the 10% income tax is not withheld at the time of the distribution, the amount distributed is subject to the ordinary income tax rates, including the ABT, established by the PR IRC.

Eligible distributions are deemed to come first from amounts that had not previously been taxed (e.g., pre-tax, employer contributions, and related earnings) and then from amounts that had previously been subject to tax (e.g., after-tax contributions).

An individual may make several eligible distributions within the eligible period, but total eligible distributions, taken from all eligible plans, cannot exceed \$100,000. Distributions previously requested, including annuity payments or periodic payments, reduce the \$100,000 and \$10,000 limits. Annuity payments, periodic payments, and any amount distributed in excess of these limits are not subject to or eligible for the special tax rules described above.

Process for requesting an eligible distribution

To receive an eligible distribution, an affidavit with the following information must be submitted with the request:

- Name and mailing address of the eligible individual;

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- Physical address of the primary residence of the eligible individual as of the date of the request; and
- Certification that:
 - The individual is a resident of Puerto Rico and will continue to be a resident for the years 2017 and 2018;
 - The amount requested does not exceed the limit for eligible distributions;
 - The amount requested will be used:
 - For expenses related to losses sustained due to the impact of Hurricane Maria;
 - For extraordinary expenses incurred to cover basic needs after Hurricane Maria; or
 - To compensate for unearned income after the passage of Hurricane Maria.
 - The individual has not received eligible distributions from other qualified plans or IRAs or, if applicable, the distribution dates and amounts received;
 - The individual has not received eligible distributions exempt from withholding or, if applicable, the distribution dates and amounts received; and
 - The individual assumes responsibility for the payment of taxes on requested distributions, if the individual:
 - Does not comply with the residency requirement;
 - Does not use the distribution amount for eligible expenses; or
 - Receives distributions in excess of the limits.

Special plan loan provisions

The relief also allows plan sponsors to make plan loans available during the eligible period, even if the plan did not normally permit loans. However, these loans remain subject to the standard loan limits of the lesser of \$50,000 or 50% of the participant's vested account balance.

In addition, an individual with an outstanding plan loan as of September 20, 2017, or a new loan issued during the eligible period may reamortize the loan or delay repayments to extend the repayment period for up to one year. For delayed repayments, after the one-year period ends, the loan must be reamortized to adjust payments for the new due date.

The one-year postponement period will be ignored with respect to the term of the loan. However, when allowing delayed repayments or reamortization, it is still necessary for plans to remain in compliance with the plan loan rules of the Employee Retirement Income and Security Act of 1974 (ERISA) and the US IRC, if applicable.

See the [“Special Hurricane Plan Loans” chart](#) appearing at the end of this publication for a comparison of the special hurricane loan provisions available under the PR IRC and US IRC.

Plan amendments

Employers may, but are not required to, adopt any or all of these provisions. In addition, employers may elect to limit eligible distributions to an amount lesser than \$100,000 or limit the definition of eligible expenses. Sponsors of dual qualified plans may also limit the provisions so they are consistent with relief and guidance issued for plans qualified under the US IRC.

Plan sponsors may permit eligible distributions and plan loans before plan documents are formally amended to permit them. However, the necessary amendments must be adopted no later than December 31, 2018 with a retroactive effective date. Adoption of these provisions are not considered a “qualification amendment.” Therefore, it is not necessary to file them with Hacienda. For sponsors that use Prudential Retirement's document services, we will notify you when applicable amendments are available.

Plan sponsor next steps

Plan sponsors with Puerto Rico-only or dual-qualified retirement plans should review the impacts of this guidance with the plan's legal counsel. If you would like to make these special hurricane distributions or loans available from your plan, please contact your Prudential Retirement representative, so that we can ensure these transactions are handled appropriately. Questions regarding this relief may also be directed to your Prudential Retirement representative.

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Special Hurricane Distributions

	Puerto Rico Treasury Administrative Determination No. 17-29	IRS Announcement 2017-11 and IRS Announcement 2017-13 Hardship Withdrawals	Disaster Tax Relief and Airport and Airway Extension Act Qualified Hurricane Distributions
Eligible Participants	Individuals who are considered a resident of Puerto Rico for tax years 2017 and 2018.	<p>Employees or former employees:</p> <ul style="list-style-type: none"> • Whose principal place of residence on the beginning of the incident period (August 23, 2017, for Hurricane Harvey, and September 4, 2017, for Hurricane Irma) was located in an area identified by Federal Emergency Management Agency (FEMA) as eligible for individual assistance or • Whose principal place of employment was located in one of those areas on the beginning of the incident period; or • Whose lineal ascendant or lineal descendant, dependent, or spouse had a principal place of residence or employment was located in one of those areas on the beginning of the incident period. 	Individuals who: <ul style="list-style-type: none"> • As of August 23, 2017, for Hurricane Harvey, September 4, 2017, for Hurricane Irma, or September 16, 2017, for Hurricane Maria, had their principal place of residence in the “Hurricane Harvey Disaster Area,” “Hurricane Irma Disaster Area” or “Hurricane Maria Disaster Area” and • Sustained an economic loss due to the hurricane.
Distribution Period:			
On or after	September 20, 2017	The beginning of the incident period	August 23, 2017 for Hurricane Harvey; September 4, 2017 for Hurricane Irma; September 16, 2017 for Hurricane Maria
Before	June 30, 2018	January 31, 2018	January 1, 2019

Special Hurricane Distributions

	Puerto Rico Treasury Administrative Determination No. 17-29	IRS Announcement 2017-11 and IRS Announcement 2017-13 Hardship Withdrawals	Disaster Tax Relief and Airport and Airway Extension Act Qualified Hurricane Distributions
Dollar Limit	<p>\$100,000 total from all of the participant's eligible plans.</p> <p>This amount may be reduced for distributions previously requested including annuity payments or periodic payments.</p>	As provided in the plan; cannot exceed 100% of vested account balance.	\$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 Federal Withholding 10% Penalty Tax on Early Distributions (\$72(t))	<p>In year distributed. The first \$10,000 distributed is exempt from income tax under the Puerto Rico IRC. Distributions in excess of \$10,000 are subject to a flat tax rate of 10%.</p> <p>Not eligible for rollover; the first \$10,000 distributed is not subject to withholding; distributions in excess of \$10,000 are subject to 10% withholding.</p> <p>Does not apply.</p>	<p>In year distributed.</p> <p>Not eligible for rollover; subject to 10% withholding, but can elect no withholding.</p> <p>Applies.</p>	<p>Included ratably over 3-year period beginning with year distributed, unless participant elects to include entirely in year distributed.</p> <p>Not eligible for rollover; subject to 10% withholding, but can elect no withholding.</p> <p>Does not apply.</p>
Repayment Options	Not available; not eligible for rollover.	Not available; not eligible for rollover.	May be recontributed to any retirement program accepting rollovers.
Plan Amendment Requirements	Amendment required in all cases.	Amendment may not be required if plan already permits Hardship Withdrawals.	Amendment required in all cases.

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Special Hurricane Distributions

	Puerto Rico Treasury Administrative Determination No. 17-29	IRS Announcement 2017-11 and IRS Announcement 2017-13 Hardship Withdrawals	Disaster Tax Relief and Airport and Airway Extension Act Qualified Hurricane Distributions
Deadline(s) for Adoption of Plan Amendments	No later than December 31, 2018.	Last day of first Plan Year beginning on or after January 1, 2018.	General: Last day of first Plan Year beginning on or after January 1, 2019. Governmental Plans: Last day of first Plan Year beginning on or after January 1, 2021.

Special Hurricane Plan Loans

	Puerto Rico Treasury Administrative Determination No. 17-29	IRS Announcement 2017-11 and IRS Announcement 2017-13	Disaster Tax Relief and Airport and Airway Extension Act
Eligible Participants	Individuals who are considered a resident of Puerto Rico for tax years 2017 and 2018.	<p>Employees or former employees:</p> <ul style="list-style-type: none"> Whose principal place of residence on the beginning of the incident period was located in an area identified by FEMA as eligible for individual assistance or Whose principal place of employment was located in one of those areas on the beginning of the incident period; or <p>1. Whose lineal ascendant or lineal descendant, dependent, or spouse had a principal place of residence or employment was located in one of those areas on the beginning of the incident period.</p>	<p>Individuals who:</p> <ul style="list-style-type: none"> As of August 23, 2017, for Hurricane Harvey; September 4, 2017, for Hurricane Irma; or September 16, 2017, for Hurricane Maria, had their principal place of residence in the “Hurricane Harvey Disaster Area,” “Hurricane Irma Disaster Area” or “Hurricane Maria Disaster Area” and Sustained an economic loss due to the hurricane.
Loan Grant Date: On or after	September 20, 2017	The beginning of the incident period	August 23, 2017, for Hurricane Harvey;

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Special Hurricane Plan Loans			
	Puerto Rico Treasury Administrative Determination No. 17-29	IRS Announcement 2017-11 and IRS Announcement 2017-13	Disaster Tax Relief and Airport and Airway Extension Act
Before	June 30, 2018	January 31, 2018	September 4, 2017, for Hurricane Irma; or September 16, 2017, for Hurricane Maria January 1, 2019
Dollar Limit	<p>The lessor of:</p> <ol style="list-style-type: none"> \$50,000, 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 The greater of 50% of the vested account balance, or \$10,000. <p>Plan loan requirements under the US IRC continue to apply, if applicable.</p>	<p>The lessor of:</p> <ol style="list-style-type: none"> \$50,000, 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 The greater of 50% of the vested account balance, or \$10,000. 	<p>The lessor of:</p> <ol style="list-style-type: none"> \$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 The greater of 100% of the vested account balance, or \$10,000.
<p>Repayment Requirements</p> <p>General Purpose Loans</p> <p>Principal Residence Loans</p>	<p>Level installments, payable at least quarterly, may extend beyond 5 years.</p> <p>Level installments, may extend beyond 5 years.</p> <p>For both General Purpose and Primary Residence loans, an outstanding loan</p>	<p>Level installments, payable at least quarterly, within 5 years.</p> <p>Level installments, payable at least quarterly, may extend beyond 5 years.</p>	<p>Level installments, payable at least quarterly, within 5 years.</p> <p>Level installments, payable at least quarterly, may extend beyond 5 years.</p> <p>For both General Purpose and Primary Residence loans, repayments due</p>

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Special Hurricane Plan Loans			
	Puerto Rico Treasury Administrative Determination No. 17-29	IRS Announcement 2017-11 and IRS Announcement 2017-13	Disaster Tax Relief and Airport and Airway Extension Act
	as of September 20, 2017 or a new loan issued during the eligible period may be reamortized or the repayments delayed to extend the loan for one year, with the one-year postponement period disregarded in determining the length of the loan.		after the qualified beginning date and before January 1, 2019, may be postponed for one year, with the one-year postponement period disregarded in determining the length of the loan.
Plan Amendment Requirements	Amendment required in all cases.	Amendment may not be required if plan already permits plan loans.	Amendment required in all cases.
Deadline(s) for Adoption of Plan Amendments	No later than December 31, 2018.	Last day of the first plan year beginning on or after January 1, 2018.	General: Last day of the first plan year beginning on or after January 1, 2019. Governmental Plans: Last day of the first Plan Year beginning on after January 1, 2021.

Pension Analyst by Prudential Retirement

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