

SECURE 2.0 ACT OF 2022

# Withdrawals for Qualified Federally Declared Disasters

Permanent rules relating to the use of retirement funds in the case of qualified federally declared disasters



On December 29, 2022, President Biden signed into law the SECURE 2.0 Act of 2022 (SECURE 2.0). This occurred as part of the passage of the Consolidated Appropriations Act, 2023, a federal government spending package. The [SECURE 2.0 Guide](#) provides a high-level summary of the key defined contribution and defined benefit plan provisions for workplace retirement plans. This article provides additional information on the **Withdrawals for Qualified Federally Declared Disasters** provision and considerations for plan sponsors and participants.

## SECURE 2.0 Section #331 – Withdrawals for Qualified Federally Declared Disasters

<b>Plan types affected</b>	401(a) PS, 401(k), MP, 403(b), Gov't 457(b)
<b>Mandatory or Optional</b>	Optional
<b>Effective date</b>	Distributions for disasters on or after January 26, 2021
<b>Overview</b>	Provides permanent rules relating to the use of retirement funds in the case of qualified federally declared disasters
<b>What has changed?</b>	Plan sponsors may allow the use of money in certain defined contribution plans in the case of qualified federally declared disasters.

## How does this affect plan sponsors?

It is important that plan sponsors are aware of this optional provision and how it affects plan participants. Specifically, this withdrawal option provides favorable income tax relief and repayment options to qualified individuals in a qualified disaster area during the incident period. A qualified disaster is a major disaster that is declared under the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

A maximum of \$22,000 in total may be distributed from all defined contribution plans that are part of the controlled group of companies under common control.

## How does this affect participants?

This change gives participants another option to access retirement funds in the case of a federally declared disaster. A qualified individual's principal place of residence during a major qualified disaster must be located in the disaster area, and they must have sustained an economic loss because of the disaster.

There are also several key differences between this distribution option and a safe harbor hardship withdrawal for a Federal Emergency Management Agency (FEMA) declared disaster. Please see the next page for a comparison.



### Key takeaways

- In the case of a federally declared disaster, now participants will have another option to access retirement funds provided certain qualifications are met. Furthermore, plan sponsors should contact their Fidelity Representative if they want to add a safe harbor FEMA hardship withdrawal to their plan.
- Participants may have questions for plan sponsors regarding this provision and Fidelity is committed to helping plan sponsors effectively communicate this change.



### Next steps

Fidelity is building a digital solution for qualified federally declared disaster distribution. While this solution is being built, we have an alternative to help employees impacted by these disasters. Plan sponsors can add the FEMA reason to their Hardship Withdrawal offering. When a plan offers this reason, a participant may contact a Fidelity Phone Representative to request a hardship withdrawal for the amount of their immediate and heavy financial need. The participant will be able to complete IRS Form 8915-F (Qualified Disaster Retirement Distributions and Repayments) when they prepare their federal income tax return to claim the favorable income tax benefits on the first \$22,000 of their distribution.

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# Comparing Qualified Federally Declared Disaster and FEMA Declared Safe Harbor Hardship Withdrawals.

Description	Qualified Federally Declared Disaster	FEMA Declared Safe Harbor Hardship Withdrawal
1. What is the amount that may be requested?	Up to \$22,000 from all defined contribution plans that are part of the controlled group of companies under common control.	Only the amount necessary to satisfy the immediate and heavy financial need for their expenses and losses (including a loss of income).
2. Does the participant's principal place of employment and/or principal place of residence have to be located in the disaster area?	Only the principal place of residence must be located in the disaster area.	The principal place of employment and/or the participant's place of residence must be located in the disaster area.
3. What is a qualified disaster?	A major disaster is declared under the Robert T. Stafford Disaster Relief and Emergency Assistance. FEMA will identify the incident period.	A FEMA declared disaster under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, but the employee's principal residence or principal place of employment at the time of the disaster was located in an area designated by FEMA for individual assistance with respect to the disaster. FEMA will identify the incident period.
4. Is the distribution subject to income tax?	The taxable portion of the distribution is subject to income tax in the year of distribution. However, the participant may spread the income over a three-year period on their federal income tax return unless otherwise elected.	The taxable portion of the distribution is subject to income tax in the year of distribution.
5. Is the distribution subject to the 10% additional tax on early distributions if the participant is under age 59 ½ (unless the participant meets one of the statutory exceptions)?	No	The taxable portion of a FEMA declared hardship withdrawal is subject to income tax in the year of distribution and a 10% early withdrawal penalty if the participant is under age 59 ½, unless one of the statutory exceptions applies. The participant will be able to complete IRS Form 8915-F (Qualified Disaster Retirement Distributions and Repayments) when they prepare their federal income tax return to claim the favorable income tax benefits on the first \$22,000 of their distribution.
6. Is the distribution eligible for a rollover to an IRA?	No	No
7. Is the distribution subject to Federal income tax withholding?	Yes, 10% of the taxable amount unless a different election is made.	Yes, 10% of the taxable amount unless a different election is made.
8. Can the participant repay or recontribute the distribution to an eligible retirement plan?	Yes, if the plan accepts rollover contributions, but the recontribution must be made within three years.	No
9. How is the distribution reported to the participant and IRS?	Fidelity will issue IRS Form 1099-R (Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.) to report the relevant information to the participant and the IRS.	Fidelity will issue IRS Form 1099-R to report the relevant information to the participant and the IRS.
10. How will the participant report this information on their federal income tax return?	The participant should use the applicable IRS Form 1040 (U.S. Individual Income Tax Return) or IRS Form 1040-SR (U.S. Individual Income Tax Return for Seniors), and IRS Form 8915-F (Qualified Disaster Retirement Plan Distributions and Repayments) to report the distribution and/or any repayment.	The participant should use the applicable IRS Form 1040 (U.S. Individual Income Tax Return) or IRS Form 1040-SR (U.S. Individual Income Tax Return for Seniors) to report the distribution.