RETIREMENT ASSETS – ELEVEN METHODS FOR WITHDRAWAL FROM RETIREMENT PLANS WITHOUT PAYING THE 10% PENALTY

Retirement accounts are an excellent method for saving for retirement because the assets accumulate income tax free and contributions reduce your taxable income. However, many times you might have an emergency and a requirement for cash that you did not anticipate. Listed below are eleven methods to withdraw cash from your retirement plan without paying the ten percent penalty to the IRS.

1. Age. You are over 59 1/2. As a result, you can withdraw amounts from your qualified plan accounts without paying a penalty, but don't forget that you have to pay the income tax (and you must pay income tax on all of these options, unless the account is a ROTH IRA and the withdrawal of your contributions, not earnings, is five years after the year that you made your first contribution (and if a ROTH 401(k), the employer plan permits))!

Note: In certain situations, traditional IRAs offer penalty-free withdrawals for hardship even when employer sponsored plans do not. Employer plans do not have to provide for hardship withdrawals at all. Many do, but only in certain situations. Check with the administrator of the 401(k) plan to confirm whether the desired hardship withdrawal is permitted by the plan.

Hardship withdrawals:

2. Permanent Disability. You are permanently disabled, either mentally or physically, which will lead to death and/or last for a long, continued, and indefinite time.

3. Medical Expenses. You use withdrawn funds to pay unreimbursed medical expenses that are more than 10% of your adjusted gross income.

4. Medical insurance. You have lost your job. You have received unemployment pay for at least 12 weeks in a row. You received the distributions in the year that you received the unemployment pay. You use the distributions to pay for medical insurance. You receive the distributions no later than 60 days after you have gotten a new job.

5. Pay taxes. If Uncle Sam comes after you for unpaid taxes, or places a levy against the account, you can take a penalty free withdrawal to pay your taxes.

6. Substantial equal periodic payments. You will not pay a penalty if the IRA distribution is part of a series. The payments must last for at least five years until you are at least 59 1/2. This may not be used for 401(k) assets from a current employer. You must take at least one payment a year, but payments may be taken more frequently. You may need the assistance of an accountant to help you calculate the payments. If the payment is too high, the account may run out of money thereby preventing the owner from complying with the duration requirement which may result in taxes, penalties and interest.

7. First Home Purchase. You can withdraw up to $10,000 ($20,000 for couples) to use to buy, build or rebuild a first home for you (if you did not own within the last two years), your spouse, your children or grandchildren, or parent or other ancestor.

8. Education expenses. You will not pay a penalty if you use the money to pay qualified higher education expenses for you, your spouse, or your child or grandchild.

9. Active military duty. There is no penalty for IRA withdrawals taken by members of the military reserves who were called to active duty after September 11, 2001 for a period of more than 179 days. The distribution must be taken over the active duty period.

Withdrawals only applicable to 401(k)s and other qualified plans:

10. Separation from Service. Employees who leave their jobs in the year they turn 55 or older can make 401(k) withdrawals for any reason without having to pay the early withdrawal penalty, but if you roll it over to an IRA, you will have to wait until age 59 1/2.

11. Qualified Domestic Relations Order (QDRO). As part of a divorce, a qualified plan (that is covered by ERISA (not including IRAs)) must be divided using a QDRO; however, some or all of the money can be transferred to the non-participant spouse in a lump sum.

Contact **Robin Miskell** in Phoenix 602.889.5329 for more information, or call your local Dickinson Wright PLLC tax attorney.