

## Chapter ETF 70

## DEFERRED COMPENSATION PLANS

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**Subchapter 1  
General Provisions**

**ETF 70.01 Emergency withdrawals.** (1) A participant may make emergency withdrawals in the event of an unforeseeable emergency under the following conditions and limitations:

(a) As defined in 26 U.S.C. s. 457 (b) (5) and 26 C.F.R. s. 1.457-2 (h) (4), an unforeseeable emergency is one which causes severe financial hardship to the participant as a result of a sudden and unexpected illness or accident of the participant or of a dependent of the participant, loss of the participant's property due to casualty, or other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the participant.

Note: "A dependent of the participant" as used here is defined by the secretary of the treasury as one specified in 26 U.S.C. s. 152 (a).

(b) The need to send a participant's child to college or the desire to purchase a home are examples of what are not unforeseeable emergencies.

(c) The facts of each case shall be ascertained to determine if the circumstances constitute an unforeseeable emergency.

(d) Withdrawal payment may not be made to the extent that the hardship is or may be relieved:

1. Through reimbursement or compensation by insurance or otherwise,
2. By liquidation of the participant's assets to the extent the liquidation of these assets would not itself cause severe financial hardship, or
3. By cessation of deferrals under the plan.

(e) The withdrawal, because of an unforeseeable emergency, shall be limited to an amount reasonably needed to satisfy the emergency need.

(2) The administrative plan provider as defined in s. 40.02 (18s), Stats., which is selected by the board under s. 40.80, Stats., and which administers the deferrals which are the subject of the withdrawal request shall:

(a) Receive requests from participants for unforeseeable emergency withdrawals,

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(b) Investigate and document the facts on a form prescribed by the department,

(c) Exchange relevant information with the employer's designated agent, and

(d) Within 5 working days after the receipt of the information required in sub. (3) make a recommendation to the department on a form prescribed by the department.

(3) The employer shall within one week of the receipt of the administrative plan provider's written request for information provide to the administrative plan provider any relevant information required to process an individual participant's request for an unforeseeable emergency withdrawal on a form prescribed by the department.

(4) The employer shall acknowledge, on the form prescribed by the department, that relevant unforeseeable emergency information concerning each emergency withdrawal request has been given to the administrative plan provider and has been received by the employer from the administrative plan provider.

(5) The department, within 5 working days of receipt and on the basis of the administrative plan provider's recommendation required in sub. (2) (d) and any additional information the department may receive, shall approve or deny the emergency withdrawal.

(6) The department shall prepare a report on unforeseeable emergency withdrawal activity since the last meeting of the board for presentation at the following meeting of the board.

History: Cr. Register, June, 1985, No. 354, eff. 7-1-85.

#### Subchapter 2

#### State Deferred Compensation Plan for Local Employees

**ETF 70.10 Participation in the deferred compensation plan.** The governing body of any employer as defined under s. 40.02 (28), Stats., other than the state, may provide the state's deferred compensation plan for its employees by the adoption of a resolution in the form approved by the department. The employer shall forward a certified copy of the resolution to the department and the then current administrative plan provider as defined in s. 40.02 (18s), Stats.

History: Cr. Register, June, 1985, No. 354, eff. 7-1-85.

**ETF 70.12 Effective date.** Local implementation of the deferred compensation plan and enrollment of eligible employees may begin immediately upon acceptance, by the department, of the resolution under s. ETF 70.10.

History: Cr. Register, June, 1985, No. 354, eff. 7-1-85.

**ETF 70.15 Terminating participation in the deferred compensation plan.** The governing body of an employer, other than the state, may terminate participation in the state deferred compensation plan after a minimum of one year from the date the certified copy of the resolution required under s. ETF 70.10 was accepted by the department, by adopting a resolution in the form approved by the department and forwarding a copy of the resolution to the department and the then current administrative plan provider.

Register, October, 1985, No. 358

provider as defined in s. 40.02 (18s), Stats. Enrollment and payroll deferral activities shall cease 90 days after receipt by the department of the certified copy of a resolution to terminate participation in the state's deferred compensation plan. Treatment of previous individual deferral investment specifications, accounts and benefits shall continue to be governed by the plan and investment plan provider contracts, unless the employer exercises its right of ownership under 26 C.F.R. s. 1.457-2 (j) to provide for different treatment.

Note: Chapter ETF 70 requires several forms which are available at no charge by contacting either the department of employee trust funds or the current administrative plan provider.

History: Cr. Register, June, 1985, No. 354, eff. 7-1-85.