Qualified Disaster Distributions and Form 8915-F

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1/2/2025

The IRS recently issued revised Form 8915-F and Instructions. Form 8915-F is a draft of the redesigned version of Form 8915 that is to be used for participants to report distributions due to qualified 2020, 2021, and later disasters, as well as reporting income from and repayment of those distributions. The revised version, and its instructions, are early releases. The IRS released them in order to provide information only—the draft form is not to be used for filing, nor are the instructions in final form to be used in completing the form for filing.

The revised Form 8915-F reflects several changes in the law made by the SECURE 2.0 Act. For example, prior to the SECURE 2.0 Act, the period for making qualified disaster distributions for qualified disasters that begin after 2020 does not have a set ending date based on the year of the disaster. It was up to taxpayers to calculate the qualified disaster distribution ending date for their disaster to determine whether their distributions are qualified disaster distributions. Under the SECURE 2.0 Act, it was clarified that it starts on the date the disaster begins and ends 179 days after the latest of the following:

(1) the disaster beginning date;

(2) the disaster declaration date; or

(3) December 29, 2022.

A Qualified Disaster Distribution, for purposes of Form 8915-F, is defined as the following:

- **Qualified Disaster:** The distribution must be related to a qualified disaster as declared by the President of the United States and typically include events such as hurricanes, earthquakes, wildfires, floods, or other similar events.
- **Eligible Retirement Plan:** The distribution must come from an eligible retirement plan. The plan must allow the distribution within the plan.
- **Purpose of Distribution:** The distribution must be for the purpose of covering expenses such as medical care, housing, or repairs to property damaged by the disaster.
- **Timeframe:** The distribution must be made within 179 days from the disaster begin date, declaration date, or after December 29, 2022 whichever is the latest.
- **Individual Eligibility:** The individual receiving the distribution must have sustained an economic loss due to the qualified disaster, such as damage to their home or business, or being unable to work due to the disaster.

The participant's primary residence must be located in a qualified disaster area at any point during the disaster period. The qualified disaster area pertains to the state, territory, or tribal government where the disaster occurred and generally any distribution (including periodic payments and mandatory minimum distributions) from an eligible retirement plan as a qualified disaster distribution, regardless of whether the distribution was made due to a qualified disaster. Additionally, a reduction or offset of your account balance in an eligible retirement plan (excluding an IRA) for the purpose of repaying a loan can also be marked as a qualified disaster distribution.

A Qualified Disaster Distribution may receive special tax treatment, and Form 8915-F is used to report such distributions. Normally, distributions from retirement accounts are included in the taxpayer's income for the year in which they are received. However, a Qualified Disaster Distribution allows the taxpayer to exclude up to a certain limit from their taxable income. The maximum amount that can be excluded from income is generally $100,000. This limit is applied on a per-person basis, so if a married couple both experienced economic loss due to a qualified disaster, each spouse could potentially exclude up to $100,000 from their income.

Taxpayers who receive Qualified Disaster Distributions also have the option to repay the distribution to an eligible retirement plan within three years of receiving it. If the taxpayer chooses to repay the distribution, it will be treated as though it were repaid in a direct trustee-to-trustee transfer. Even if the taxpayer does not repay the distribution, the inclusion of the distribution into income can be spread evenly over three years, beginning with the year of distribution. This spreading of income recognition can help reduce the tax impact in any given year. Generally, early withdrawals from retirement accounts before age 59½ are subject to a 10% penalty. However, Qualified Disaster Distributions are exempt from this penalty.

Even though this information is basically for a participant's individual tax return, it is important for plan sponsors and advisers to understand the requirements in case they get questions from participants. Because the forms were not issued in final form, more clarification may be needed before relying on the draft form and instructions.