

The County Connection

To: Administration & Finance Committee

From: Kathy Casenave *Kc*
Director of Finance

Date: July 25, 2011

Reviewed By: *flink*

SUBJECT: ICMA 457 LOANS

SUMMARY OF ISSUES:

The Authority set up a 457 deferred compensation plan many years ago so that employees can voluntarily contribute on a tax deferred basis for retirement. The Authority **does not match** these contributions.

IRS allows for withdrawal in the event of an unforeseeable emergency. The withdrawal is a taxable event for the employee.

The qualifying events are very limited (see attached). Employees have financial needs that are hardships for them but do not qualify for the emergency withdrawal- such as moving expenses, legal expenses, emergency travel expenses to visit sick parents.

The most frequent qualifying request of our employees is for eviction. Most employees know beforehand they may be short on rent money, but they have to wait until they get an eviction notice before ICMA can approve the request. Besides being detrimental to their credit, getting the notice and then waiting for the approval and receipt of funds is a source of anxiety for employees.

There has been an increase in requests for the hardship withdrawal at the Authority and ICMA has told me that we are not unique.

IRS also allows for employees to borrow funds from their account balance. The loan is not a taxable event and it must be paid back over 5 years with interest. The Authority currently does not provide for this option; understandably the Board has been reluctant to do so because the purpose of the plan is to encourage employees to save additional funds for retirement.

Staff is requesting that the Board rethink this position because:

1. Some employees are experiencing financial hardships that do not qualify for the emergency withdrawal or they have to wait until the situation becomes desperate in order to qualify.
2. This is their money.
3. Some employees do not have any other savings.
4. Emergency withdrawals are subject to taxes and there is no mechanism to pay back the withdrawal.
5. All requests for emergency withdrawals must go through the Director of Finance, which has become more time consuming because of the number of requests and the number of denials. (The Director is notified of the denial and then has to contact employee).
6. To receive an emergency withdrawal, employees often must disclose personal, sensitive information about their financial situation.

There are some advantages to having a loan program:

1. Employees will deal directly with ICMA for the loan application. Only when the paperwork is complete between ICMA and employee will Authority staff be involved, and that will only be for setting up the payroll deduction to pay back the loan.
2. Employees will be paying themselves back with interest, thus preserving their retirement savings.

3. The loan is nontaxable to the employee; it will become taxable only if the employee terminates before the loan is paid back or defaults on the loan.
4. Staff is proposing that there be only one loan at a time.

FINANCIAL IMPLICATIONS:

None for the Authority. Some payroll staff time involved, but less time for Director of Finance. Also will be less intrusive for employees needing additional funds during a financial hardship.

ACTION REQUESTED: Staff requests that the A&F Committee forward the resolution to the Board of Directors recommending adoption.

ATTACHMENTS:

Examples of Emergency Withdrawal Qualifying and Non-qualifying requests

Proposed resolution allowing Participant loans

AMENDING ICMA RETIREMENT PLAN TO PERMIT LOANS

Section 457 deferred Compensation Plan

ICMA-RC Plan # 303117

Name of Employer: Central Contra Costa Transit Authority (CCCTA)

State: California

Resolution of the above named Employer ("CCCTA")

WHEREAS, the CCCTA has employees rendering valuable services; and

WHEREAS, the CCCTA maintains an eligible deferred compensation plan under section 457(b) of the Internal Revenue Code (the "Plan") for such employees which serves the interest of the CCCTA by enabling it to provide reasonable retirement security for its employees, by providing increased flexibility in its personnel management system, and by assisting in the attraction and retention of competent personnel; and

WHEREAS, the CCCTA has determined that permitting participating employees to take loans from the Plan will further serve these objectives;

NOW THEREFORE BE IT RESOLVED that the Plan will permit loans.

I, Janet Madrigal, Clerk of the Board of Directors of Central Contra Costa Transit Authority, do hereby certify that the foregoing resolution, proposed by the Administration and Finance Committee, was duly passed and adopted by the Board of Directors of Central Contra Costa Transit Authority at Concord, CA at a regular meeting thereof assembled this _____ day of _____, 20__, by the following vote:

AYES:

NAYS:

ABSENT:

(seal)

Clerk of the (City, County, etc.)

Examples of Non-Qualifying Requests	Examples of Qualifying Requests
<ul style="list-style-type: none"> • Purchase of a home or automobile • Education expenses, such as college tuition • Normal monthly expenses, including rent or mortgage payments, utilities, credit card bills and car payments • Loss of overtime or second job • Routine medical and dental bills, elective/cosmetic surgery, or orthodontia • Normal maternity leave • Routine home or auto maintenance • Tax liability (payment of income tax, back taxes, or fines associated with back taxes)* • Travel expenses • Personal bankruptcy (except when resulting directly and solely from illness or casualty loss)* • Legal expenses (except in criminal cases) • Marital separation, divorce or child support* • Repayment of loans <p><i>*Although not reflected in the Internal Revenue Code, the IRS has stated in question-and-answer sessions that these situations would not comply.</i></p>	<ul style="list-style-type: none"> • Lost wages (realized) • Medical bills resulting from an accident or unexpected illness that are not covered by insurance • Damage to your home due to an accident or natural disaster (beyond insurance reimbursement) • Damage to your car or other personal property due to an accident or natural disaster (beyond insurance reimbursement) • Loss of your property due to theft (beyond insurance reimbursement) • Legal bills involving criminal charges against you or your dependent(s) • Expenses associated with the imminent foreclosure of, or eviction from, a participant's residence • Non-refundable deductibles and prescription medicine expenses associated with medical expenses resulting from the sudden illness or accident of you or one of your dependents • Funeral expenses for a spouse or dependent <p><i>Please note: Unreimbursed medical expenses and expenses related to property loss or damage must be incurred and supported by bills -- estimates will not be accepted.</i></p>

EMERGENCY WITHDRAWAL PROCEDURES

Before an emergency withdrawal disbursement is made, you must:

- Determine that suspending contributions will not satisfy the financial need
- Exhaust all available loan options from your deferred compensation or defined contribution account(s)
- Obtain all proper documentation
- Obtain your employer's authorization

Documenting Your Request

The *Emergency Withdrawal Form* asks you to describe the emergency and confirm that it meets the guidelines. The form requires that you attach any documents supporting your request, including information about the circumstances, financial impact of the emergency, and the nature of your

other resources available to meet the emergency. For example, a request for lost wages should include:

- ✓ a pay stub showing your normal pay rate
- ✓ pay stubs showing no wages and all leave balances exhausted
- ✓ a letter from your employer (or doctor, if applicable) explaining the reason for your absence.

If you do not provide adequate documentation with your emergency withdrawal request, processing may be delayed. Before submitting your request, be sure that you have included the following:

- ✓ Fully completed *Emergency Withdrawal Form*
- ✓ Fully completed *Emergency Withdrawal Worksheet*
- ✓ Copies of bills detailing unreimbursed medical expenses or property damage/loss