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## Penalty-Free IRA Withdrawals for a Dream Home

With interest rates remaining low in the fourth quarter of 2019, many proactive clients may start preparing for a home purchase in 2020. Advisors should expect calls from these clients asking whether it makes sense to tap into their retirement savings to help with the down payment or to use some of the funds to pay those pesky and mysterious settlement costs.

The answer you should be giving these homebuyers is: *"It depends."*

Retirement savers can generally withdraw from their IRAs at any time and for any reason. And, if they are in a 401(k) plan that allows hardship withdrawals, they can withdraw from their account to pay for home purchase expenses.

Of course, IRA or company plan distributions may be taxable to the participants in the year paid out. And, if under age 59½, the client may also be subject to a 10% early distribution penalty on top of regular income tax.

Fortunately, Congress has carved out a number of exceptions to the 10% penalty. Some exceptions apply to both company plans and to IRAs; some apply only to IRAs; and some apply only to company plans. So, it's not surprising that these rules are easily confused by the general public and even by experts.

### The Soltani-Amadi Case

In a recent Tax Court case, [\*Lily Hilda Soltani-Amadi v. Commissioner; No. 2090-18S; T.C. Summ. Op. 2019-19; August 8, 2019\*](#), the taxpayer, Lily, was assured ahead of time by a plan representative that the early withdrawal penalty would not apply to the 401(k) plan distribution she and her husband wanted to use for a down payment on a new home. Relying on that advice, they did not treat the payment as an early distribution on their tax return. After receiving a notice of deficiency from the IRS, they appealed to the Tax Court.

The court noted that the tax code plainly provides the exception to the 10% penalty for first-time home purchases applies only to distributions from an "individual retirement plan." Another section of the tax code specifically defines "individual retirement plan" to mean only an IRA. This led the court to conclude the 10% exception applies only to IRA distributions – *not to company plan distributions.*

### 6 Conditions for the First-Time Homebuyer Exception

To take advantage of the first-time homebuyer exception to the 10% penalty, an IRA withdrawal must be

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