

**MEMO# 31543**

January 3, 2019

## **ICI Requests IRS Clarification Regarding RMDs from 403(b) Plans**

[31543]

January 3, 2019 TO: ICI Members  
Pension Committee

Pension Operations Advisory Committee SUBJECTS: Pension RE: ICI Requests IRS  
Clarification Regarding RMDs from 403(b) Plans

On January 2, the Institute, along with several other trade groups, submitted the attached letter to the IRS and Treasury requesting clarification of an issue arising from previous guidance on required minimum distributions (RMDs) from 403(b) plan accounts.

The need for clarification relates to a February 2018 memorandum to IRS Employee Plans examiners, which addresses missing participants and beneficiaries in 403(b) plans.<sup>[1]</sup> The memorandum instructs examiners not to challenge a 403(b) contract for violation of the RMD standards for “the failure to commence or make a distribution to a participant or beneficiary to whom a payment is due, if the plan has taken” certain steps to find the missing participant or beneficiary, as outlined in the memorandum. This guidance appears to contradict regulations applicable to 403(b) plans, which state that for purposes of RMDs, 403(b) contracts and accounts are treated like IRAs.<sup>[2]</sup> Therefore, RMDs must be calculated separately for each 403(b) contract or account, but an individual may take the total aggregated RMD due from any one (or more) 403(b) contract or account.<sup>[3]</sup> 403(b) plan custodians and annuity providers accordingly do not force out RMD payments.

The letter requests clarification that the discussion in the February 2018 memorandum is not intended to override the rule that 403(b) contracts and accounts are to be treated as IRAs for purposes of the RMD rules.

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[Attachment](#)

## endnotes

[1] The memorandum is available at: <https://www.irs.gov/pub/foia/tege-04-0218-0011.pdf>. For a description of the guidance, see ICI Memorandum No. 31126, dated March 12, 2018, available at: [https://www.ici.org/my\\_ici/memorandum/memo31126](https://www.ici.org/my_ici/memorandum/memo31126).

[2] Treas. Reg. § 1.403(b)-6(e)(2).

[3] Treas. Reg. § 1.408-8, Q&A-9; Treas. Reg. § 1.403(b)-6(e)(7).

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