

MEMO# 25939

February 28, 2012

DC Revises Mandatory Retirement Distribution Withholding Law to Apply Only to Lump Sum Distributions of Entire Account Balance

[25939]

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TO: BANK, TRUST AND RETIREMENT ADVISORY COMMITTEE No. 8-12
BROKER/DEALER ADVISORY COMMITTEE No. 11-12
TRANSFER AGENT ADVISORY COMMITTEE No. 11-12
PENSION MEMBERS No. 12-12
TAX MEMBERS No. 11-12 RE: DC REVISES MANDATORY RETIREMENT DISTRIBUTION
WITHHOLDING LAW TO APPLY ONLY TO LUMP SUM DISTRIBUTIONS OF ENTIRE ACCOUNT
BALANCE

We want to update you on an additional development regarding the new District of Columbia mandatory retirement distribution withholding law. [\[1\]](#) Last week the DC Mayor approved the “Targeted Retirement Distribution Emergency Act of 2012,” [\[2\]](#) which amends the prior DC withholding law to provide that DC mandatory withholding only applies to a “lump-sum distribution.” The amendment defines “lump-sum distribution” as “a payment from a payor to a resident payee of the resident payee’s entire account balance, exclusive of any other tax withholding and any administrative fees and charges.” The amendment is effective within 5 days of the February 24, 2012 enactment date. [\[3\]](#)

The amendment specifically excludes the following from mandatory withholding:

1. Any portion of a lump-sum payment that was previously subject to tax;
2. An eligible rollover distribution that is effected as a direct trustee to trustee transfer;
or
3. A rollover from an individual retirement account to a traditional or Roth individual retirement account that is effected as a direct trustee to trustee transfer.

Because the amendment was passed via emergency legislation, it does not require Congressional approval, as required for most DC laws. Emergency legislation, however, remains in effect for no longer than 90 days from the date of approval of the DC Mayor. As

the DC Mayor approved the legislation on February 24, 2012, it technically will expire on May 24, 2012, unless made permanent prior to expiration. We understand based on telephone conversations with an attorney in the DC Office of the Chief Financial Officer that it is not unusual for legislation to be enacted in DC through a three-step process: emergency legislation, temporary legislation [4] and permanent legislation. Although emergency legislation expires after 90 days, temporary legislation is effective following a 30-day Congressional Review period mandated by the District of Columbia Home Rule Act, unless disapproved by a joint resolution of the House and Senate. [5] If not disapproved, temporary legislation expires 225 days after its effective date, and has the effect, pending Congressional approval, of extending the expiration date of the previously enacted emergency legislation, providing additional time for the DC Council to enact permanent legislation. Accordingly, although passed as emergency legislation, we expect the amendment (limiting the application of the mandatory retirement distribution law to lump sum distributions of entire account balances) to ultimately become permanent legislation.

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endnotes

[1] See [Memorandum](#) to Pension Members No. 1-12, Tax Members No. 1-12 [25785], dated January 10, 2012; [Memorandum](#) to Bank Trust and Retirement Committee No. 2-12, Transfer Agent Advisory Committee No. 2-12, Pension Committee No. 2-12, Pension Operations Advisory Committee No. 2-12 [25784], dated January 10, 2012.

[2] A copy of the Act is available here:
<http://dcclims1.dccouncil.us/images/00001/20120224104446.pdf>.

[3] A copy of the DC Office of Tax and Revenue Notice discussing the revised withholding requirement is available here:
<http://newsroom.dc.gov/show.aspx?agency=otr§ion=2&release=23108&year=2012&file=file.aspx%2frelease%2f23108%2fWH%2520Retirement%2520Plan%2520Distribution%2520Revision.pdf>.

[4] The Targeted Retirement Distribution Withholding Temporary Act of 2012 was introduced in the DC Council on February 21, 2012. A copy of the DC Council Legislative website page is available here:
[http://dcclims1.dccouncil.us/lms/legislation.aspx?LegNo=B19-0699&Description="TARGETED+RETIREMENT+DISTRIBUTION+WITHHOLDING+TEMPORARY+ACT+OF+2012](http://dcclims1.dccouncil.us/lms/legislation.aspx?LegNo=B19-0699&Description=).

[5] Under the District of Columbia Home Rule Act, generally, Congress has 30 legislative days from the date DC legislation is transmitted to the Speaker of the House of Representatives and President of the Senate to enact a joint resolution disapproving the legislation.

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