

**MEMO# 31225**

May 30, 2018

# **IRS Guidance on Reporting and Withholding for Payments from IRAs to State Unclaimed Property Funds**

[31225]

May 30, 2018 TO: ICI Members

Operations Committee

Pension Committee

Pension Operations Advisory Committee

Transfer Agent Advisory Committee SUBJECTS: Pension RE: IRS Guidance on Reporting and Withholding for Payments from IRAs to State Unclaimed Property Funds

The IRS has published Revenue Ruling 2018-17,[\[1\]](#) providing guidance on reporting and withholding obligations with respect to amounts paid from an IRA to a state unclaimed property fund. The guidance provides that under the facts and circumstances described, where a taxpayer has a traditional IRA for which no withholding election has been made, and pursuant to applicable state law, the IRA trustee is required to pay amounts from the IRA to the state unclaimed property fund, the IRA trustee must (1) withhold federal income tax from the payment (a nonperiodic distribution) at a rate of 10 percent, and (2) report the payment on Form 1099-R identifying the IRA owner as the recipient.

The ruling applies the withholding rules under Internal Revenue Code section 3405, which provides that “any distribution or payment from or under an [IRA] (other than a Roth IRA) shall be treated as includible in gross income” and that such a distribution is a “designated distribution” subject to federal income tax withholding. For designated distributions that are “nonperiodic distributions” (i.e., payments that are not an annuity or similar periodic payment), section 3405(b) requires a payor to withhold at a rate of 10 percent, unless the taxpayer elects not to have withholding apply.

Revenue Ruling 2018-17 does not specify a special reporting code or otherwise require payors to designate payments as escheated to a state.[\[2\]](#) The ruling also does not specifically address payments from retirement plans other than IRAs to a state unclaimed property fund.[\[3\]](#)

The ruling includes transition relief whereby “[a] person will not be treated as failing to comply with the withholding and reporting requirements described in this revenue ruling with respect to payments made before the earlier of January 1, 2019, or the date it

becomes reasonably practicable for the person to comply with those requirements.”

Elena Barone Chism  
Associate General Counsel - Retirement Policy

#### endnotes

[1] Revenue Ruling 2018-17 is available here: <https://www.irs.gov/pub/irs-drop/rr-18-17.pdf>.

[2] ICI has requested guidance from the IRS on the federal tax implications of escheatment in the context of retirement plans and IRAs, including (1) whether Form 1099-R reporting is required, (2) whether payors should designate amounts as escheated and, if so, how payors should make such a designation, and (3) whether withholding is required. See ICI Memorandum No. 30726, dated June 2, 2017, available here: [https://www.ici.org/my\\_ici/memorandum/memo30726](https://www.ici.org/my_ici/memorandum/memo30726).

[3] It is unclear whether the same analysis of withholding and reporting obligations described in the ruling would apply in the context of distributions from other retirement plans covered by Code section 3405, specifically an “employer deferred compensation plan,” which includes “any pension, annuity, profit-sharing, or stock bonus plan or other plan deferring the receipt of compensation.”

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