

**MEMO# 25784**

January 10, 2012

## **DC and Michigan Mandatory Retirement Distribution Withholding Changes for 2012; Conference Call Scheduled for January 13, 2012 at 3:30 P.M. ET**

ACTION REQUESTED

[25784]

January 10, 2012

TO: BANK, TRUST AND RETIREMENT ADVISORY COMMITTEE No. 2-12  
BROKER/DEALER ADVISORY COMMITTEE No. 2-12  
TAX COMMITTEE No. 5-12  
TRANSFER AGENT ADVISORY COMMITTEE No. 2-12  
PENSION COMMITTEE No. 2-12  
PENSION OPERATIONS ADVISORY COMMITTEE No. 2-12 RE: DC AND MICHIGAN MANDATORY RETIREMENT DISTRIBUTION WITHHOLDING CHANGES FOR 2012; CONFERENCE CALL SCHEDULED FOR JANUARY 13, 2012 AT 3:30 P.M. ET

We want to inform you of two recent state law mandatory retirement distribution withholding developments. [\[1\]](#) Late last year, the District of Columbia issued a tax notice regarding compliance with its new mandatory retirement distribution withholding requirement [\[2\]](#) and the Michigan Supreme Court issued an advisory opinion upholding the constitutionality of the new Michigan mandatory retirement distribution legislation. [\[3\]](#)

The Institute will hold a conference call to discuss these issues on Friday, January 13, 2012 at 3:30 pm ET. If you would like to participate in this call, please respond to Brenda Turner at [bturner@ici.org](mailto:bturner@ici.org), or by phone at 202-326-5820 by close of business on Thursday, January 12, 2012. To participate, please dial 1-888-848-6510 and enter passcode 67352.

### **District of Columbia**

Under the new District of Columbia Law [\[4\]](#), payors of distributions from retirement plans or accounts which are subject to federal withholding are required to withhold District of Columbia income tax at the highest DC tax rate in effect at the time of the distribution. As of January 1, 2012, the highest DC income tax rate is 8.95%. The law applies to

distributions from a qualified employee benefit plan, annuity plan, defined contribution plan, tax sheltered annuity plan, IRA, any combination of the above plans or accounts, and any similarly situated plan as defined by the Internal Revenue Code. Because the new law was passed as emergency legislation effective December 22, 2011, the DC Office of Tax and Revenue issued OTR Tax Notice 2011-9 which states that “payors are expected to make this change effective as soon as possible.”

## Michigan

Under the new Michigan Law [5] payors are required to withhold Michigan income tax of 4.35% of the taxable portion of the pension or retirement distribution. The law applies to all pension and retirement distributions made from a pension plan, IRA, annuity, profit sharing plan, stock bonus plan, or other deferred compensation plan. Withholding is not required on exempt pension and retirement distributions. The portion of a distribution that is exempt from tax depends on the taxpayer’s date of birth, personal exemptions, and whether any part of a distribution is not included in the taxpayer’s federal adjusted gross income. Generally, for taxpayers born after 1946 [6] payors are required to withhold 4.35% on all distributions unless the payor receives a withholding certificate from the retiree, which is used to determine how much, if any, of a distribution is exempt from tax because of personal exemptions or the retiree’s age. [7]

Howard Bard  
Associate Counsel - Pension Regulation

### endnotes

[1] The Institute’s 2011 surveys on state tax matters are available on the Institute’s website at [http://www.ici.org/policy/tax/state\\_tax\\_2011](http://www.ici.org/policy/tax/state_tax_2011). See [Memorandum](#) to 529 Members No. 9-11, Accounting/Treasurers Members No. 33-11, Closed End Investment Company Members No. 84-11, Pension Members No. 67-11, Tax Members No. 41-11, Unit Investment Trust Members No. 1-11 [25711], dated December 14, 2011.

[2] Tax Notice 2011-9 is available here:  
<http://newsroom.dc.gov/show.aspx/agency/otr/section/2/release/22851>.

[3] A copy of the advisory opinion is available here:  
<http://courts.michigan.gov/supremecourt/Clerk/11-12-Term-Opinions/143157.pdf>.

[4] The District of Columbia Fiscal 2011 Budget Support Act of 2012 is available here: <http://dcclims1.dccouncil.us/images/00001/20110707145931.pdf>. The withholding provision is located in Title VIII, Section L on page 111.

[5] The Michigan Treasury Department’s website page with information regarding the tax change is available here: <http://www.michigan.gov/taxes/0,4676,7-238--260229--,00.html>.

[6] Consistent with prior law, mandatory withholding for taxpayers born prior to 1946 applies to the extent the amounts exceed the private pension limits - \$45,842 for single or married filing separate and \$90,240 for joint filers.

[7] The Michigan Treasury Department’s chart detailing the exemptions dependent upon age is available here:  
[http://www.michigan.gov/documents/taxes/Tax\\_Change\\_Summaries\\_-\\_Retirement\\_Exempti](http://www.michigan.gov/documents/taxes/Tax_Change_Summaries_-_Retirement_Exempti)

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