

MEMO# 31391

September 20, 2018

IRS Publishes Updated Safe Harbor 402(f) Notices for Eligible Rollover Distributions

[31391]

September 20, 2018 TO: ICI Members
Pension Committee

Pension Operations Advisory Committee SUBJECTS: Pension RE: IRS Publishes Updated Safe Harbor 402(f) Notices for Eligible Rollover Distributions

The IRS has published Notice 2018-74,[\[1\]](#) containing amendments to the safe harbor explanations for satisfying the notice requirements of Internal Revenue Code section 402(f) relating to eligible rollover distributions. Under section 402(f), the notice required to be provided to participants in section 401(a) qualified plans and section 403(a), 403(b), and governmental 457(b) plans generally must describe the rollover rules and consequences of not rolling over an eligible rollover distribution (e.g., income tax withholding). Notice 2018-74 amends the two safe-harbor model notices published in Notice 2014-74 (one for payments not from a designated Roth account and one for payments from a designated Roth account).[\[2\]](#)

The amendments reflect relevant legislative changes and guidance issued after December 8, 2014, including: (1) the extended rollover deadline for qualified plan loan offset amounts under the Tax Cuts and Jobs Act of 2017,[\[3\]](#) (2) the exception to the 10% additional tax under section 72(t) for phased retirement distributions to certain federal retirees under the Moving Ahead for Progress in the 21st Century Act, (3) the expanded exception to the 10% additional tax under section 72(t) for specified federal employees who have reached age 50 under Defending Public Safety Employees' Retirement Act, and (4) the self-certification procedures under Rev. Proc. 2016-47 for claiming eligibility for a waiver of the deadline for making rollovers.[\[4\]](#) In addition to the updates related to law changes and guidance, the model notices also include modifications intended to: (1) clarify that the 10% additional tax under section 72(t) for early distributions applies only to amounts includable in income, (2) explain how the rollover rules apply to governmental 457(b) plans that include designated Roth accounts, (3) clarify that the general exception to the 10% additional tax under section 72(t) for payments from a governmental plan made after a qualified public safety employee separates from service (if the employee will be at least age 50 in the year of the separation) is not available for payments from IRAs, and (4) recognize the possibility that taxpayers affected by federally declared disasters and other events may have an extended

deadline for making rollovers.

Appendix A of Notice 2018-74 contains the updated model notices. Appendix B contains instructions on how to amend the prior safe harbor model notices published in Notice 2014-74 to reflect the modifications, if the plan administrator does not want to simply replace the prior versions with the updated versions contained in Appendix A. Notice 2018-74 reminds plan administrators that the updated safe harbor explanations will not satisfy section 402(f) to the extent the explanations are no longer accurate because of a change in the relevant law occurring after September 18, 2018.

Elena Barone Chism
Associate General Counsel - Retirement Policy

endnotes

[1] Notice 2018-74 is available at: <https://www.irs.gov/pub/irs-drop/n-18-74.pdf>.

[2] See ICI Memorandum No. 28542, dated November 25, 2014. Available at https://www.ici.org/my_ici/memorandum/memo28542.

[3] See ICI Memorandum No. 30991, dated December 21, 2017. Available at https://www.ici.org/my_ici/memorandum/memo30991.

[4] See ICI Memorandum No. 30166, dated August 25, 2016. Available at https://www.ici.org/my_ici/memorandum/memo30166.

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