

**MEMO# 35493**

October 18, 2023

# **IRS and Treasury Release 2023-2024 Priority Guidance Plan: Retirement Savings Items**

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TO: Pension Committee

Pension Operations Advisory Committee SUBJECTS: Pension

Tax RE: IRS and Treasury Release 2023-2024 Priority Guidance Plan: Retirement Savings Items

The IRS and Treasury Department have released their 2023-2024 Priority Guidance Plan listing their priorities for tax regulations and other administrative guidance through June 2024.[\[1\]](#) The plan includes several projects that relate to retirement savings, including:

- Guidance implementing changes made by the SECURE 2.0 Act, including guidance providing questions and answers on certain issues under the SECURE 2.0 Act.[\[2\]](#)
- Regulations under §72(t) relating to the 10 percent additional tax on early distributions.[\[3\]](#)
- Regulations and related guidance on IRAs under §§219, 408, 408A, and 4973 and related guidance under §408(m).
- Regulations relating to the timing of the use or allocation of forfeitures in qualified retirement plans.[\[4\]](#)
- Final regulations updating electronic delivery rules and other guidance for providing applicable notices and making participant elections.[\[5\]](#)
- Final regulations and other guidance relating to modifications to §401(a)(9) (required minimum distributions) made by the SECURE Act[\[6\]](#) and the SECURE 2.0 Act,[\[7\]](#) and addressing other issues under §401(a)(9).[\[8\]](#)
- Regulations and other guidance relating to modifications to certain rules governing §401(k) plans made by the SECURE Act and SECURE 2.0 Act.[\[9\]](#)
- Guidance on student loan payments and qualified retirement plans and §403(b) plans.
- Guidance on missing participants, including guidance on uncashed checks.[\[10\]](#)
- Final regulations and related guidance on the exception to the unified plan rule for §413(e) multiple employer plans.[\[11\]](#)
- Regulations on the definition of governmental plan under §414(d).
- Final regulations under §3405 regarding distributions made to payees, including

- military and diplomatic payees, with an address outside the United States.<sup>[12]</sup>
- Regulations relating to the reporting requirements under §6057.

Elena Barone Chism  
Deputy General Counsel - Retirement Policy

#### Notes

[1] The 2023-2024 Priority Guidance Plan is available here: <https://www.irs.gov/pub/irs-utl/2023-2024-priority-guidance-plan-initial-version.pdf>. Many of the items described herein also appeared on the agencies' Spring 2023 Semi-Annual Regulatory Agenda. See ICI Memorandum No. 35358, dated June 26, 2023, available here: <https://www.ici.org/memo35358>. For a description of the Institute's retirement savings recommendations for the 2023-2024 guidance plan, see ICI Memorandum No. 35346, dated June 12, 2023, available here: <https://www.ici.org/memo35346>.

[2] Notice 2023-62, providing transition relief and guidance on section 603 of the SECURE 2.0 Act (requiring Roth catch-up contributions for certain plan participants), is one item already released under this guidance project. See ICI Memorandum No. 35426, dated August 30, 2023, available here: <https://www.ici.org/memo35426>. For background on the SECURE 2.0 Act, see ICI Memorandum No. 34795, dated January 12, 2023, available here: <https://www.ici.org/memo34795>.

[3] Section references are to the Internal Revenue Code. While this project has appeared on the guidance plan in previous years, there are several SECURE 2.0 Act provisions that amend section 72(t) and presumably will be wrapped into this project.

[4] The IRS published proposed regulations in February 2023. See ICI Memorandum No. 35062, dated March 3, 2023, available here: <https://www.ici.org/memo35062>.

[5] The guidance plan indicates that proposed regulations were published on December 30, 2022, which refers to the proposal for permanent remote notarization and witnessing of spousal consent. That proposal also confirms and emphasizes that the five special rules regarding use of an electronic medium for participant elections in existing Treasury Reg. §1.401(a)-21(d) (e.g., effective ability to access, authentication, etc.) apply to spousal consents, including a few clarifications in that regard. See ICI Memorandum No. 34806, dated January 13, 2023, available here: <https://www.ici.org/memo34806>.

[6] For background on the SECURE Act, see ICI Memorandum No. 32118, dated December 20, 2019, available here: <https://www.ici.org/memo32118>.

[7] For background on the SECURE 2.0 Act, see ICI Memorandum No. 34795, dated January 12, 2023, available here: <https://www.ici.org/memo34795>.

[8] For a description of the proposed regulations, see ICI Memorandum No. 34057, dated March 4, 2022, available here: <https://www.ici.org/memo34057-0>. For ICI's comment letter on the proposed regulations, see ICI Memorandum No. 34160, dated May 25, 2022, available here: <https://www.ici.org/memo34160>.

[9] For background on the SECURE Act, see ICI Memorandum No. 32118, dated December

20, 2019, available here: <https://www.ici.org/memo32118>. For background on the SECURE 2.0 Act, see ICI Memorandum No. 34795, dated January 12, 2023, available here: <https://www.ici.org/memo34795>.

[10] Previous guidance on uncashed checks was published in Revenue Ruling 2019-19. See ICI Memorandum No. 31912, dated August 20, 2019, available here: <https://www.ici.org/memo31912>. In addition, in Revenue Ruling 2020-24 and Revenue Procedure 2020-46, IRS provided guidance on the income tax implications of payments from qualified plans to state unclaimed property funds. See ICI Memorandum No. 32851, dated October 20, 2020, available here <https://www.ici.org/memo32851>.

[11] For a description of the proposed regulations, see ICI Memorandum No. 34109, dated April 12, 2022, available at <https://www.ici.org/memo34109>. For ICI's comment letter on the proposed regulations, see ICI Memorandum No. 34164, dated May 27, 2022, available at <https://www.ici.org/memo34164>.

[12] Regulations were proposed in 2019. For a description of the proposal, see ICI Memorandum No. 31818, dated June 21, 2019, available here: <https://www.ici.org/memo31818>.