



UNCLAIMED PROPERTY ALERT

IRS issues guidance for reporting funds escheated from an IRA account – Rev. Rul. 2018-17

On May 29, 2018 the Internal Revenue Service published Revenue Ruling 2018-17 – Withholding and Reporting With Respect to Payments From IRAs to State Unclaimed Property Funds. The ruling clarifies that property in an IRA which is escheated to the state meets the definition of a designated distribution, under § 3405 of the Internal Revenue Code (IRC), and therefore is subject to applicable tax withholding and reporting to the IRS.

The ruling appears to be the result of guidance requested from the Information Reporting Program Advisory Committee (IRPAC) which provides an organized public forum for discussion of tax information reporting issues between IRS officials and representatives of the public.

According to the ruling, the payment of an individual's interest in a traditional IRA to the state unclaimed property fund is a payment from an IRA that is treated as includible in gross income.

The analysis in the ruling concludes that under § 3405(e)(3), a nonperiodic distribution is a designated distribution that is not an annuity or similar periodic payment. Therefore, the payor shall withhold 10 percent of the distribution, unless the IRA owner has previously established a different withholding rate or opted out of withholding.

Because the escheatment of an IRA account is to be treated as includible in gross income, and therefore subject to applicable withholding rules, it is also required that the distribution and withholding be reported on Form 1099, Distributions from Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.

Although the position presented in the revenue ruling implies that escheated IRAs have always been considered includible in gross income and subject to withholding and reporting, the ruling provides for an effective date of the earlier of January 1, 2019, or the date it becomes reasonably practical for the holder/trustee to comply with the requirements.

What does this mean to you?

There will be no impact for holders of IRAs in cash positions that have already been withholding when reporting. However, holders in the securities industry (broker dealers, equity stock, mutual funds, etc.), where IRAs are not held in a cash position, are faced with concerns of liquidating a customer's assets without their consent in order to fulfill the IRS reporting obligations. For these holders, compliance with the Revenue Ruling may not be possible without becoming noncompliant with other federal regulations. Internal and/or external legal counsel should be consulted before liquidating securities to satisfy the IRS reporting requirement to determine what, if any, Securities and Exchange Commission (SEC) and/or Financial Industry Regulatory Authority (FINRA) violations may be present.

Holders of IRAs subject to the Revenue Ruling will need to ensure systems are able to execute the distribution from the IRA, withhold the applicable tax, and report the distribution and withholding to the IRS and the owner.

Holders may also want to consider enhancing owner location efforts as a means of reducing the number of IRAs that are subject to the new Rule.

Georgeson continues to work with various industry groups to address the many concerns holders face in association with compliance of this Revenue Ruling.

[The full text of the Revenue Ruling can be found here.](#)

This article is intended for educational purposes and should not be considered legal advice. For additional questions concerning this alert, contact Dana Terry at dterry@georgeson.com or 201-539-1998.

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