

RR-113583-19

Section 3405.--Special Rules for Pensions, Annuities, and Certain Other Deferred Income
(Also, § 6047)

Rev. Rul. 2020-24 Withholding and Reporting With Respect to Payments From Qualified Plans to State Unclaimed Property Funds

ISSUES

(1) Under the facts presented, is the payment of Individual C's accrued benefit from Plan X subject to federal income tax withholding under § 3405 of the Internal Revenue Code?

(2) Is the payment from Plan X subject to reporting under § 6047?

FACTS

Employer M is the plan administrator of Plan X, a qualified retirement plan under § 401(a) that does not include designated Roth accounts under § 402A, hold employer securities, or provide benefits described in § 104 (compensation for injuries or sickness) or § 105 (amounts received under accident and health plans). Individual C, a U.S. person under § 7701(a)(30)(A) with a calendar year taxable year, has an accrued benefit in Plan X with a value of \$900, has not made a withholding election under

§ 3405 with respect to her benefit, and has no investment in the contract within the meaning of § 72 with respect to her benefit. In 2020, Individual C's accrued benefit (net of any applicable withholding) is paid to the State J unclaimed property fund, a fund under which a claim for property may be made by an owner.¹

LAW AND ANALYSIS

(1) Withholding

Section 3405 provides federal income tax withholding rules with respect to designated distributions. Under § 3405(d), the payor or plan administrator shall withhold from a designated distribution, and be liable for, payment of the tax required to be withheld under § 3405. Under § 3405(e)(1)(A), the term "designated distribution" means, except as provided in § 3405(e)(1)(B), any distribution or payment from or under an employer deferred compensation plan, an individual retirement plan under § 7701(a)(37), or a commercial annuity. Under § 3405(e)(5), the term "employer deferred compensation plan" includes any pension, annuity, profit-sharing, or stock bonus plan, or other plan deferring the receipt of compensation. A qualified retirement plan under § 401(a) is an employer deferred compensation plan.

Section 3405(e)(1)(B)(i), (iii), and (iv) provides exceptions to treatment as a designated distribution with respect to amounts that are wages, amounts that are

¹ This revenue ruling does not address whether the payment to the State J unclaimed property fund otherwise complies with applicable law. For example, it does not address compliance with any search requirements applicable under state law and does not address matters arising under Title I of the Employee Retirement Income Security Act of 1974, Pub. L. 93-406, 88 Stat. 829, as amended, for which the Department of Labor has subject matter jurisdiction under Reorganization Plan No. 4 of 1978, 5 U.S.C. App.

subject to withholding on nonresident aliens and foreign corporations,² and distributions described in § 404(k)(2) relating to dividends on employer securities. None of these exceptions apply under the facts presented. In addition, § 3405(e)(1)(B)(ii) provides that a designated distribution does not include the portion of a distribution or payment it is reasonable to believe is not includible in gross income. Under the facts presented, it is not reasonable for Employer M to believe that the payment of any portion of Individual C's accrued benefit from Plan X is not includible in gross income.

Because none of the statutory exceptions from treatment as a designated distribution in § 3405(e)(1)(B) apply to the payment of Individual C's accrued benefit from Plan X, the payment, including the amount withheld, is a designated distribution. Accordingly, the payment is subject to federal income tax withholding under § 3405(d).

(2) Reporting

Section 6047(d) provides that the Secretary of the Treasury shall, by forms or regulations, require the employer maintaining a plan from which designated distributions (as defined in § 3405(e)(1)) may be made, or the plan administrator of that plan, to make returns and reports regarding the plan. However, no such return or report may be required with respect to distributions to any person during any year unless the distributions aggregate \$10 or more.

² Under § 3405(e)(1)(B)(iii), a designated distribution does not include a payment that is subject to withholding under the withholding rules applicable to payments to nonresident aliens and foreign corporations. See § 1441 (Withholding of tax on nonresident aliens), § 1442 (Withholding of tax on foreign corporations), and § 1.1441-4(b)(1)(ii).

Form 1099-R, *Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.*, is used to satisfy the reporting obligations under § 6047(d). Under the 2020 instructions to Form 1099-R, a Form 1099-R must be filed for each person to whom a designated distribution of \$10 or more has been made, and the total amount of the distribution (before income tax or other withholding) must be reported in Box 1 of that form. In addition, under those instructions, the federal income tax withheld must be reported in Box 4 of the Form 1099-R.

The Plan X payment of Individual C's accrued benefit, including both the amount sent to the State J unclaimed property fund and the amount withheld, is a designated distribution under § 3405(e)(1) that exceeds the reporting threshold. Accordingly, Employer M is required to report that designated distribution in Box 1, and the federal income tax withheld in Box 4, of the Form 1099-R for 2020.

HOLDINGS

(1) The payment of Individual C's accrued benefit from Plan X is subject to federal income tax withholding under § 3405.

(2) The payment from Plan X is subject to reporting under § 6047.

TRANSITION RELIEF

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, 2022, or the date it becomes reasonably practicable for the person to comply with those requirements.

DRAFTING INFORMATION

The principal author of this revenue ruling is Angelique Carrington of the Office of Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes). Ms. Carrington may be reached at (202) 317-4148 (not a toll-free number).