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BENEFITS & COMPENSATION UPDATE

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***Recent IRS Guidance on Taxation:
Withholding and Reporting for Uncashed Distribution Checks
from Tax-Qualified Plans***

The tax and reporting treatment of distribution checks that are not cashed by participants in 401(k) and other tax-qualified plans has been an area of uncertainty for plan administrators. The IRS, in Revenue Ruling 2019-19, has resolved some of these issues regarding the treatment of uncashed checks. The IRS has ruled that an uncashed retirement plan distribution check is taxable to a plan participant in the year paid by the plan and that such payment is subject to related tax withholding and reporting requirements, even if the participant has not cashed the check.

Taxation and Withholding on Uncashed Checks

Revenue Ruling 2019-19 involves a tax-qualified retirement plan that distributed a payment to a participant which was subject to tax withholding. The participant to whom the check was paid did not cash the check. The IRS ruled that even though the participant did not cash the distribution check, the distribution is still included in the participant's gross income in the year of payment by the plan. In addition, the IRS

ruled that the uncashed check is subject to tax withholding and information reporting on Form 1099-R in the year of payment. The IRS noted in its ruling that these results apply irrespective of whether the check is kept, sent back, destroyed or cashed by the participant in a subsequent year.

Missing Participants

The IRS noted in the ruling that it continues to analyze issues involving uncashed checks of participants that cannot be located by the plan administrator. Thus, if the participant's address is not valid, e.g., the check comes back as "return to sender, address unknown," it may not be taxable since the mailing by the plan administrator to an incorrect address may not be considered a distribution. If the plan administrator after using reasonable efforts described in applicable Department of Labor guidance (Field Assistance Bulletin 2014-01) is unable to obtain the correct address of the participant, then pending further guidance from the IRS regarding missing participants, it is possible that the administrator may need

to reverse the reporting and withholding on the uncashed check.

Conclusion

The Revenue Ruling provides plan administrators with clear tax, withholding and reporting rules relating to the treatment of

uncashed checks. However, there remains uncertainty as to treatment of uncashed checks that are issued to participants who are unable to be located. Further guidance will be needed from the IRS regarding the tax, withholding and reporting rules applicable to participants who cannot be located by plan administrators.

This update is not intended to provide legal advice with respect to any particular situation, and no legal or business decision should be based solely on its content.

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