

Retirement **Spotlight**

Illuminating current industry news and events

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IRS Releases Final Regulations On Tax Withholding Requirements

The Internal Revenue Service recently released [Treasury Decision \(TD\) 10008](#), which provides guidance on income tax withholding requirements for certain periodic payments and nonperiodic distributions from deferred compensation plans, individual retirement arrangements (IRAs), and commercial annuities. These regulations address a payor's obligation to withhold income taxes when those payments or distributions are made to payees outside of the United States. This guidance applies to deferred compensation plans as defined in Internal Revenue Code Section ([IRC Sec. 3405\(e\)\(5\)](#)) and includes any pension, annuity, profit sharing, stock bonus plan, or other plan that defers the receipt of compensation. A commercial annuity is considered an annuity, endowment, or life insurance contract as defined in IRC Sec. 3405(e)(6).

Generally, periodic payments and nonperiodic distributions from defined benefit plans, defined contribution plans, IRAs, and commercial annuities are required to have income taxes withheld as provided by [IRC Secs. 3405\(a\) and \(b\)](#) unless an exception applies. For example, IRC Sec. 3405(e)(1)(B)(iii) provides for an exception when making a periodic payment or nonperiodic distribution subject to the withholding of income tax for nonresident aliens and foreign corporations as provided by IRC Secs. 1441 through 1446.

TD 10008 provides guidance under IRC Secs. 3405(a) and (b) for payors that make payments in the following situations.

- **Payees with a military or diplomatic Post Office address.** Withholding of income tax is not required for distributions made to a payee with a military or diplomatic Post Office outside of the United States as these sites are treated the same as an address located in the United States.
- **Payees with a residence address located within the United States.** Withholding of income tax is generally required when a payee with an address located in the United States provides instructions for a payment to be delivered outside of the United States.
- **Payees with a residence address located outside of the United States or who have not provided a residence address.** Unless an exception applies under IRC Sec. 3405(e)(13)(B) (e.g., for certain nonresident aliens), withholding of income tax is generally required when payments are made to payees with residence addresses located outside of the United States—even if the payee provides payment instructions to be delivered within the United States. And, payors must withhold income tax for payments made to payees that have not provided a residence address. In both instances, the payee will not have the option to elect to waive withholding.
- **Payments subject to withholding rules for nonresident aliens and foreign corporations.** The withholding rules under IRC Secs. 3405(a) and (b) do not apply to a nonresident alien who requests a distribution from a qualified plan or IRA. Instead, these individuals are subject to a 30 percent withholding requirement under IRC Sec. 1441, or an applicable rate specified under a tax treaty specific to their resident country.

These regulations became effective October 21, 2024, and apply to periodic payments or nonperiodic distributions made on or after January 1, 2026. However, these regulations may be applied to payments and distribution requests made before January 1, 2026.

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