



IRS Publishes Helpful Guidance on Uncashed Checks from Qualified Retirement Plans

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The Internal Revenue Service (IRS) recently issued [Revenue Ruling 2019-19](#), which addresses three basic questions related to the treatment of uncashed checks that result from qualified retirement plan distributions.

Uncashed Checks – Background

Uncashed checks are unfortunately a common occurrence – and frustration – in the world of qualified retirement plans. Issues with uncashed checks can arise in a number of contexts, but one common situation involves mandatory payments from a plan (such as age 70-1/2 required minimum distribution or force-outs of plan balances under \$1,000). In this situation, a plan administrator will typically issue a check to the plan participant's last known address on file, which may or may not be the plan participant's current address at the time of payment. This can result in the check remaining uncashed for extended periods of time.

IRS Guidance

In light of the recurring nature of uncashed check scenarios, the IRS guidance in Revenue Ruling 2019-19 is welcome. The guidance addresses a situation that involves the following facts:

- a mandatory, fully taxable \$900 distribution from a qualified retirement plan to a plan participant in 2019;
- the plan participant has not previously made a withholding election with respect to her plan benefit; and
- although the plan participant receives the distribution check in 2019, she does not cash the check (and also does not roll it over).

The IRS concludes that the participant's failure to cash the check in 2019 does not change the tax treatment of the distribution for three important purposes. First, the amount of the distribution is includible in the participant's income in 2019; the IRS makes clear that this is true regardless of the participant's reason for not cashing the check after she receives it. Second, the plan administrator must still withhold and pay the applicable tax under Code Section

3405. Third, the plan administrator must also still report the distribution and the tax withheld on Form 1099-R for 2019. These conclusions represent a common-sense approach to the narrow set of facts addressed by the IRS.

Winston Take-Away

Perhaps most interesting is what the Revenue Ruling does not address. For example, the Revenue Ruling involves a situation in which the plan participant definitely receives the distribution check and simply fails to cash it. Left open is whether the same analysis and conclusions would apply to situations in which it is unclear whether a participant actually receives the check (or situations in which *it is known* that a participant has *not* received the check). In addition, the final sentence of the Revenue Ruling states that the Treasury Department and IRS “continue to analyze issues that arise in other situations involving uncashed checks...including situations involving missing” plan participants. Given the ongoing audit activity related to missing participants and plan administrator’s efforts to locate and pay them, additional guidance on uncashed checks – and related topics – in the missing participant context would be very welcome.

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