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IRS PROPOSAL CLARIFIES TAX WITHHOLDING FOR PENSIONS

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New IRS [proposed rules](#) would clarify the tax-withholding requirements for retirement plan payments. Internal Revenue Code Section 3405 requires tax withholding on most payments from employer-sponsored deferred compensation plans, individual retirement accounts and commercial annuities (rollovers aren't subject to these rules). Recipients can elect no withholding, but not if their payments will be delivered outside the US (unless the recipient is not a US citizen, a resident alien or subject to expatriation taxes).

[Notice 87-7](#) sets forth the current IRS guidance on the withholding requirements under Section 3405. The notice focuses on the recipient's residence address — if it's located outside the US or if the recipient fails to provide an address, withholding is required and the recipient can't elect to make a no withholding election. The proposed rules (which will supersede the notice when finalized) would confirm this approach but with a few clarifications:

- Withholding is required when the recipient's residence address is outside the US even if the payment is sent to a financial institution or other individual located in the US.
- Withholding is required when the recipient's residence address is in the US if the distribution is sent to a financial institution or other individual outside the US.
- Military and diplomatic addresses are treated as within the US, so recipients at these addresses may elect no withholding.

The proposal also clarifies that these rules don't apply to nonresident aliens, who are subject to separate withholding rules under IRC Section 1441.

Comments on the proposal are due Aug. 29.

RELATED RESOURCES

- [Proposed Regulations](#) (Federal Register, May 31, 2019)
- [Notice 87-7](#) (IRS)

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