

**Section 402.—Taxability of beneficiary of employees' trust  
(Also §§ 3405, 6047)**

**Rev. Rul. 2019-19 Failure To Cash a Distribution Check From a Qualified Retirement Plan**

**ISSUES**

(1) Under the facts presented, does Individual A's failure to cash the distribution check she received in 2019 permit her to exclude the amount of the designated distribution from her gross income in that year under § 402(a) of the Internal Revenue Code?

(2) Does Individual A's failure to cash the distribution check she received alter Employer M's obligations with respect to withholding under § 3405?

(3) Does Individual A's failure to cash the distribution check she received alter Employer M's obligations with respect to reporting under § 6047(d)?

**FACTS**

Employer M is the plan administrator of Plan X, a qualified retirement plan under § 401(a) that does not include a qualified Roth contribution program under § 402A(b). A distribution of \$900 is required to be made from Plan X to Individual A in 2019.

Individual A has no investment in the contract within the meaning of § 72 with respect to her Plan X benefit, has a calendar year taxable year, and has never made a withholding election with respect to her Plan X benefit. Employer M makes the required \$900 distribution, a designated distribution within the meaning of § 3405(e)(1), by withholding tax as required under § 3405(d)(2) and mailing a check for the remainder to Individual

A. Although Individual A receives the check and could cash it in 2019, she does not do so.<sup>1</sup> Individual A does not make a rollover contribution with respect to any portion of the designated distribution, and no other exception to income inclusion under § 402(a) applies.

## **LAW AND ANALYSIS**

### **(1) Includibility in Gross Income**

Section 402(a) provides that, except as otherwise provided in § 402 (for example, a rollover under § 402(c)(1)), any amount actually distributed to a distributee by an employees' trust described in § 401(a) which is exempt from tax under § 501(a) is taxable to the distributee, in the taxable year of the distributee in which distributed, under § 72. Section 72 provides rules relating to inclusion in gross income of amounts received from qualified plans and certain other arrangements.

Under § 402(a), the amount of the designated distribution is actually distributed from Plan X to Individual A in 2019. Because Individual A has no investment in the contract within the meaning of § 72 and no exception to § 402(a) applies, the amount of the designated distribution is includible in her gross income in 2019. Individual A's failure to cash the distribution check she received in 2019 does not permit her to exclude the amount of the designated distribution from her gross income in that year under § 402(a).

### **(2) Withholding**

Section 3405 provides federal income tax withholding rules with respect to designated distributions as defined under § 3405(e)(1). With respect to specified plans,

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<sup>1</sup> For purposes of this revenue ruling, whether Individual A keeps the check, sends it back, destroys it, or cashes it in a subsequent year is irrelevant.

including a plan described in § 401(a), § 3405(d)(2) provides that the plan administrator shall withhold and be liable for payment of the tax required to be withheld under § 3405 unless the plan administrator directs the payor to withhold the tax and provides the payor with such information as the Secretary may require by regulations.

Employer M, as the plan administrator of Plan X, withheld tax as required under § 3405(d)(2) from Individual A's designated distribution.<sup>2</sup> Individual A's failure to cash the distribution check she received does not alter Employer M's obligations with respect to withholding of tax, and liability for payment of that tax, under § 3405.

### **(3) 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.

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 2019 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

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<sup>2</sup> As described in the facts, Employer M withheld tax as required under § 3405(d)(2) from the designated distribution. However, under certain circumstances, withholding with respect to a designated distribution is not required. For example, under § 31.3405(c)-1, Q&A-14, no withholding is required if the amount of an eligible rollover distribution (as defined in § 402(f)(2)(A)) is less than \$200 (subject to specified aggregation rules).

reported in Box 1. In addition, under those instructions, the taxable amount of the distribution (including income tax withheld) must be reported in Box 2a, and the federal income tax withheld must be reported in Box 4.

The Plan X distribution to Individual A, including both the amount of the check 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 of a Form 1099-R for 2019. Because Individual A has no investment in the contract within the meaning of § 72 and no exception to income inclusion under § 402(a) applies, Employer M must report the same amount in Box 2a as in Box 1 and must report the federal income tax withheld in Box 4. Individual A's failure to cash the distribution check she received does not alter Employer M's obligations with respect to reporting under § 6047(d).

## **HOLDINGS**

(1) Individual A's failure to cash the distribution check she received in 2019 does not permit her to exclude the amount of the designated distribution from her gross income in that year under § 402(a).

(2) Individual A's failure to cash the distribution check she received does not alter Employer M's obligations with respect to withholding under § 3405.

(3) Individual A's failure to cash the distribution check she received does not alter Employer M's obligations with respect to reporting under § 6047(d).

The Department of the Treasury and the Internal Revenue Service continue to analyze issues that arise in other situations involving uncashed checks from eligible

retirement plans described in § 402(c)(8)(B), including situations involving missing individuals with benefits under those plans.

**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).