

IRS Regulations Clarify Non-U.S. Income Tax Withholding on Certain Distributions from Employer Deferred Compensation Plans

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PRACTICES Employee Benefits and Executive Compensation

The IRS recently published final regulations (the “**Regulations**”) relating to non-U.S. income tax withholding on distributions and payments from employer deferred compensation plans (qualified and non-qualified), individual retirement plans (“**IRA**”), and certain commercial annuities.

Under Code Sections 3405(a) and 3405(b), the payor of a periodic payment or nonperiodic distribution from an employer deferred compensation plan, IRA, or commercial annuity generally must withhold income tax from such payment unless the payee elects to not have income tax withheld. The Regulations provide guidance regarding withholding under several situations in the international context in which the payee is located outside of the U.S. and/or instructs a payment to be made outside of the U.S.:

- Withholding is not required for payments made to payees with a military or diplomatic Post Office address, because these addresses are considered to be located within the U.S.
- Withholding generally is required for payments made to payees with a residence address located within the U.S. if the payee provides payment instructions indicating that the funds are to be delivered outside of the U.S.
- Withholding generally is required for payments made to payees with a residence address located outside of the U.S. even if the payee requests that the funds be deposited with a financial institution located within the U.S.
- Withholding is required for payments made to payees who have not provided a residence address.

The Regulations apply to payments and distributions made on or after January 1, 2026; however, payors may apply the guidance to earlier payments and distributions.

The Regulations are available [here](#).