

October 25, 2018

IRS Updates Model Tax Notices for Eligible Rollover Distributions from Retirement Plans

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In its recent [Notice 2018-74](#), the Internal Revenue Service (IRS) provides updated model tax notices for the required written explanations given to recipients of eligible rollover distributions from qualified retirement plans. These updated notices reflect recent changes to the laws in this area as well as IRS guidance. Plan administrators should review the notices they are currently using to see if they need updating. If they are not up-to-date, plan administrators may use the updated IRS model tax notices or should take steps to update their notices.

The Internal Revenue Code (IRC) generally requires that the plan administrator of a qualified retirement plan shall, within a reasonable period of time before making an eligible rollover distribution, provide a written explanation of specified information to the recipient of that distribution. This requirement also generally applies to a plan administrator of 403(a), 403(b), and 457(b) plans.

The updated IRS model tax notices are safe harbor explanations that the IRS states may be used by plan administrators and payors to satisfy the applicable notice requirements (at least until any further law changes are made).

The plan administrator or payor is not required to use the IRS model tax notice and can develop its own notice as long as it has the required information, and it is written in a manner designed to be easily understood.

Changes to the IRS Model Tax Notices

The IRS updated the model tax notices to reflect specific legislative changes and IRS guidance issued since 2014, including:

- The extended rollover deadline for qualified plan loan offset amounts under the Tax Cuts and Jobs Act of 2017

- The self-certification procedures under Revenue Procedure 2016-47 for claiming eligibility to waive the deadline for making rollovers
- The exception to the 10% additional tax on early distributions for phased retirement distributions to certain federal retirees under the Moving Ahead for Progress in the 21st Century Act (MAP-21)
- The expanded exception to the 10% additional tax on early distributions for specified federal employees, who have reached age 50 under the Defending Public Safety Employees' Retirement Act

Also, the IRS modified the model tax notices to clarify specific matters, such as:

- Clarifying that the 10% additional tax on early distributions applies only to amounts includable in income
- Explaining how the rollover rules apply to governmental section 457(b) plans that include designated Roth accounts
- Clarifying that the general exception to the 10% additional tax on early distributions for payments from a governmental plan made after a qualified public safety employee separates from service (if the employee will be at least age 50 in the year of separation) is not available for payments from IRAs
- Recognizing the possibility that taxpayers affected by federally declared disasters and other events may have an extended deadline for making rollovers

Using the Updated IRS Model Tax Notices

The new 2018 IRS guidance provides two separate model tax notices. One model tax notice reflects the rules for distributions that are not from a designated Roth account. The other reflects the rules for distributions that are from a designated Roth account. Both model tax notices should be provided to a participant if that participant is eligible to receive eligible rollover distributions both from a designated

Roth account and from an account other than a designated Roth account.

The IRS recognizes that some plan administrators that have been using the old model tax notices issued in 2014 in Notice 2014-74 may wish to update those model tax notices by making amendments to them (rather than replacing them with the revised model tax notices). The 2018 IRS guidance provides instructions on how to amend the model tax notices in [Notice 2014-74](#) to reflect the modifications made in the revised model tax notices.

The IRS guidance provides that a plan administrator or payor may customize a model tax notice by omitting any information that does not apply to its plan. The IRS provides several examples illustrating this in the guidance. Also, the IRS guidance provides that the plan administrator or payor may provide additional information with the IRS model tax notice if the information is consistent with IRC section 402(f).

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