



To: Board of Trustees – Florida Pension Clients
From: Klausner, Kaufman, Jensen & Levinson, Board Counsel
Re: New Withholding Requirements
Date: November 18, 2024

On October 21, 2024, the Internal Revenue Service (“IRS”) issued a final regulation regarding income tax withholding rules for retirement plan payments to recipients located outside of the United States. Individuals residing in the United States generally may elect no withholding under the Internal Revenue Code (“IRC”), however, payments sent to pensioners outside of the United States are subject to stricter rules.

The regulation finalizes proposed regulations issued in May 2019, with no substantive modifications, except for the applicability date. The regulation applies to pension payments made on or after January 1, 2026; however, taxpayers may apply the regulation to early payments and distributions. The final regulation provides the following:

- A retiree cannot elect “no withholding” if the recipient provides a residence address located outside of the US or fails to provide a residence address, even if the payment is sent to a financial institution or other individual located in the US.
- A retiree cannot elect “no withholding,” if the distribution is sent to a financial institution or other individual outside the US, even if the recipient has a US residence address.
- If a retiree uses a military or diplomatic address as their residence address, those addresses are treated as within the US, so recipients at these addresses may elect “no withholding.” Withholding is required if the recipient has a US residence address and does not elect “no withholding.”

The regulation does not apply to non-U.S. citizens or nonresident aliens of the United States.

Plan Administrators should be notified of the requirements of this regulation so that they can instruct the custodian and other paymasters when to withhold. This memo should be placed on the next available agenda for discussion by the Board.