

Publications

# IRA Escheatment Reporting Gets A Much Needed Extension

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Earlier this year, the IRS issued Revenue Ruling 2018-17 that mandated Form 1099-R reporting and withholding on IRA assets that are escheated to a state beginning with payments made no later than January 1, 2019.

The IRA industry raised a number of issues related to this guidance, which was intended to bring clarity to how IRA providers should report and withhold on escheatment payments, including:

- Federal securities laws may raise concerns with liquidating assets without the IRA owner's consent, which would be required for IRAs that do not have sufficient cash to cover the 10% withholding obligation.
- Loss of potential investment earnings once the asset is liquidated.
- How to restore these assets back into an IRA solution without running afoul of the once-per-year rollover restriction and the 60-day rollover period is a challenge.
- How to best avoid double taxation and complex Form 1040-X reporting.

In new Notice 2018-90, the IRS took heed of the industry requests and has provided another year of transition relief – so that the new withholding and reporting rule will not be mandated until the earlier of January 1, 2020 or the date it becomes reasonably practicable to comply with these rules. Hopefully, this additional year will give us time to resolve the federal securities concerns and the other administrative complexities raised by the original guidance. But the extension is a perfect first step with the January 1, 2019 deadline looming.

Groom attorneys have been working with a number of clients on this reporting issue, and if you are interested in exploring options or would like assistance with comment letters or modifying IRA documents, please contact one of the attorneys listed below or your regular Groom attorney for more information.