

Withholding from Benefit Payments

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A. Introduction

PBGC deducts and withholds from pension benefits to the extent required by federal law. In addition, payees, plan sponsors, or other organizations may ask PBGC to deduct and withhold all or part of pension benefits administered by PBGC. For example, PBGC may be asked to deduct and withhold state and local income taxes, nursing home fees, insurance premiums, or other types of payments to third parties. With this edition, PBGC is revising the internal guidance to clarify how net underpayments should be treated for federal tax withholding purposes.

B. Scope and Effective Date

This internal guidance describes the rules that PBGC applies to deducting and withholding income from the pension benefits it pays and supplements the rules found in Internal Guidance Assignment and Alienation of Benefits. It does not cover deduction and withholding rules that are addressed in Internal Guidance Earnings-Offset Provisions or Internal Guidance Recoupment, Recovery and Administrative Correction (Repayment of Benefits). This internal guidance applies to all pension benefits processed by PBGC on and after April 1, 2021.

C. Internal Guidance

1. General Internal Guidance

- a. PBGC deducts and withholds from pension benefits to the extent required by federal law. These mandatory withholdings include, but are not limited to, federal income tax, tax levies imposed by the Internal Revenue Service (“an IRS levy”), garnishments under the Mandatory Victims Restitution Act (MVRA), and payments due an alternate payee under a QDRO.
- b. PBGC generally does not deduct and withhold from pension benefits where not required by federal law. Amounts that PBGC does not deduct and withhold include state and local taxes; child support or alimony that is not ordered under a qualified domestic relations order (QDRO); garnishments; premiums for group or individual health or life insurance, including premiums for Medicare Part B; and union dues. However, PBGC retains discretionary authority to withhold or deduct these or other amounts as appropriate, including where the agency agreed to withhold certain amounts in specific pension plans. (PBGC will continue to withhold in accordance with these agreements.)

2. Federal Tax Withholding

- a. PBGC withholds federal income tax in amounts determined in accordance with the Internal Revenue Code (IRC), IRS rules, and guidance it receives from the IRS regarding PBGC-specific issues.

- b. PBGC will comply with a payee's request for additional withholding on payments (i.e., beyond the required amount), only to the extent allowed under the IRC and to the extent that the amount of additional withholding does not exceed the amount that remains after PBGC has deducted and withheld all amounts it must deduct and withhold under federal law. For example, additional withholding will not be allowed to the extent it would prevent PBGC from complying with a QDRO.
- c. Withholding on periodic and nonperiodic payments will follow IRC rules. PBGC will request a withholding certificate from a participant when the participant applies for benefits and will follow IRC guidance on default withholding if no election is made. Payees receiving periodic payments may change their withholding election or opt out of withholding at any time by filing a new withholding certificate.
- d. Reimbursement of net underpayments (see Internal Guidance Computation and Netting of Post-DOPT Overpayments and Underpayments) will be treated similarly to supplemental wage payments under the IRC, and will be subject to a flat withholding rate of 20%, irrespective of the withholding election on the underlying periodic payment. Payees may not elect a different withholding rate or to opt out of withholding on these payments.
- e. To the extent any payment which is treated as an eligible rollover distribution, as defined under § 402(f)(2)(A) of the IRC is not directly rolled over to another plan or IRA, PBGC will withhold 20% mandatory federal tax withholding.
- f. PBGC notifies pension plan payees about its obligation to withhold federal income tax from pension payments and about payees' rights and responsibilities under the IRC and federal tax regulations.