IRS Revenue Procedure 2019-19 regarding uncashed check with a very specific fact pattern

Many plan sponsors face the issue of what to do with uncashed checks. Even if the check is sent to correct address, the participant or former participant may not cash the check. The IRS issued a Revenue Ruling (Revenue Ruling 2019-19 – Failure to Cash a check From a Qualified Plan) which might influence participants and or former participants to cash the check.

Issues addressed in the Revenue Ruling

- A distribution from a qualified plan in the amount of $900 was made to an individual.
- The individual received the check and could cash the check in the same year.
- The total amount of the distribution was taxable.
    - The individual had no investment in the contract within the meaning of IRC §72 (non-taxable basis).
    - The plan in the example does not include a qualified Roth contribution program under §402(A)(b).
- The individual made no withholding election.
- The individual did not cash the check or roll it over.
- The plan sponsor withheld taxes as required under IRC §3405(d)(2).
- The plan sponsor reported the distribution via Form 1099-R.
- The employer is the plan administrator and responsible for the proper operation of the plan.

IRS Holdings

- Failure to cash a check when received does not permit the individual to exclude the distribution from income in the year received.
- If the individual keeps the check, returns the check, destroys the check, or cashes the check in a subsequent year is considered to be a failure to cash the check when received.
- The employer has withholding responsibility even if the check isn't cashed.
- The employer has reporting responsibility with respect to the distribution.

Observations

The issues addressed are defined very narrowly and are intended to make a simple point - an individual who receives a distribution check cannot control the year of taxation of the distribution. The fact that it specifies that the check is received by the individual in 2019 and could have been cashed in 2019 leaves out all of the distributions mailed in the latter part of December. It also creates a burden on the taxpayer to document when the check was received (and the term “received” is not defined in the ruling.) It is common practice to withhold and issue a 1099-R based on the date the check is written, not the date the check is received or cashed by the individual.

More guidance regarding uncashed checks is needed.