



## New Optional IRS Withholding Calculations Address ARRA Provisions Affecting Pensioners

*The IRS has just issued a new optional withholding calculation procedure to address potential underwithholding for pensioners for the 2009 and 2010 tax years, an unintended effect of withholding tables issued in February 2009 to reflect the “Making Work Pay” credit under ARRA. Employers may want to proactively communicate with pensioners regarding their withholding directions as well as advise them of the one-time \$250 economic recovery payment under ARRA.*

### Background

On February 17, President Obama signed the American Recovery and Reinvestment Act of 2009 (ARRA). Among its many provisions is the Making Work Pay credit, a refundable tax credit for working Americans. In tax years 2009 and 2010, this tax credit is up to \$400 for individuals and up to \$800 for married taxpayers filing joint returns. Pensioners are not eligible for the credit.

ARRA also provides a one-time economic recovery payment of \$250 to pensioners in 2009. Individuals receiving Supplemental Security Income (SSI) or Social Security benefits are eligible for this payment.

### New Withholding Procedures and Economic Recovery Payment

#### February 2009 Withholding Tables

The IRS announced new withholding tables on February 21, 2009 that reflect the Making Work Pay credit. Employers were able to implement the new tables immediately, and no later than April 1, 2009. The modified withholding tables automatically take into account the anticipated Making Work Pay tax credit through reduced withholding. Although the credit is not available to pensioners, the new withholding tables apply for all purposes, to active employees and pensioners alike. Thus, under the February tables, pensioners may not have enough withheld from their pension benefit payments to cover their tax liability for 2009 and 2010.

#### Notice 1036-P – Optional Additional Pensioner Withholding

To help address this inadvertent potential underwithholding, the IRS has now issued [Notice 1036-P](#), *Additional Withholding for Pensions for 2009*. The notice includes new optional withholding calculations for pension payments subject to withholding under Section 3405 of the Internal Revenue Code. The new withholding

calculations in the notice are to be used with the mandatory February tables, which are published in IRS Publication 15-T, *New Wage Withholding and Advance Earned Income Credit Payment Tables*.

Employers are not required to use the new calculations in Notice 1036-P and may instead rely solely on the February withholding tables. Even if employers adopt the new calculations, there may still be a gap period of insufficient withholding between when the employers implemented the new tables (sometime between late February and April 1, 2009) and the date employers adopt the optional calculations for pensioners.

After the release of the tables, but prior to Notice 1036-P, some employers may have issued communications to pensioners and/or requested new withholding directions on an updated Form W-4P, *Withholding Certificate for Pension or Annuity Payments*. These employers may want to issue further communications if they adopt the new withholding calculations in Notice 1036-P, and if so, make retirees aware of any gap period. Employers may also want to notify pensioners that they may submit a new Form W-4P with any necessary adjustments..

### **Economic Recovery Payment**

Individuals receiving Supplemental Security Income (SSI) or Social Security benefits are eligible for a one-time payment of \$250 directly from the government. No action is required on the part of the pensioner and payments are expected in May through June of 2009. The payment will not count as income for federal income tax purposes and is separate and apart from normal Social Security benefits. Along with any communications about withholding, employers may want to notify retirees of this payment.

### **Conclusion**

To minimize the potential for owing tax at year end, employers should consider whether to adopt the new optional withholding calculation procedure in Notice 1036-P for pensioners. Employers also may want to notify pensioners that they may need to review their current W-4P directions to ensure sufficient withholding, as well as advise them of the economic recovery payment. Buck's consultants are available to develop appropriate communications to retirees.

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*This FYI is intended to provide general information. It does not offer legal advice or purport to treat all the issues surrounding any one topic.*