



## NAGDCA NOTES

### Governmental Plan Withholding and Reporting Requirements

EGTRRA revised Chapter 24 of the Code regarding income tax withholding and reporting requirements for governmental plans. Effective after December 31, 2001, distributions to individuals from governmental Section 457(b) plans are subject to withholding in accordance with the requirements of Code Section 3405 as it applies to distributions from qualified plans, annuities, and IRAs. Some notable impacts of this change include the following:

- Section 3405(c) direct rollover and mandatory 20% withholding rules apply to governmental Section 457(b) distributions (that are considered eligible rollover distributions as defined by Section 402(c)(4)).
- Section 3405(a) and 3405(b) elective withholding rules that apply to distributions from qualified plans, Section 403(b) annuities, and IRAs (that are not eligible rollover distributions) are extended to governmental 457(b) plan distributions. Under these rules, periodic distributions (that are not eligible rollover distributions) are treated as wages and taxed accordingly as provided in Section 3405(a). Nonperiodic distributions (that are not eligible rollover distributions) are subject to a 10 percent withholding rate as outlined in Section 3405(b).

**Note:** The recipient may elect not to have withholding apply under Section 3405(a) and/or Section 3405(b) to a governmental Section 457(b) plan distribution that is not an eligible rollover distribution.

- EGTRRA amended Section 3405(d) to clarify that governmental plan administrators are generally liable for complying with the withholding requirements of distributions, **unless** the plan administrator has directed the payor to withhold income tax under Section 3405 **and** provides the payor with the necessary information required by the regulations of Section 35.3405-1T, E 2-5. In that event, the payor assumes liability for withholding the necessary income taxes.
- Individual distributions from a governmental Section 457(b) plan during the taxable year are reported on Form 1099-R. Income tax withheld from governmental Section 457(b) plan distributions is reported on Form 945. Plan participants still select their taxes to be withheld by using the Form W-4.

*For more information on governmental plan withholding and reporting requirements, see IRS Notice 2003-20 at <http://www.irs.gov/pub/irs-drop/n-03-20.pdf>, or contact NAGDCA's Senior Project Coordinator, Gina Vessels, at [gvessels@amrinc.net](mailto:gvessels@amrinc.net) or 859-514-9161.*

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