Douglas County Community Foundation
CELEBRATING 20 YEARS

Financial Advisor News

July 2020

Eyebrow-raising IRS relief for required minimum distributions

In the CARES Act, passed on March 27, 2020, Congress eliminated this year's Required Minimum Distributions from IRAs, 401(k)s, and 457(b) and 403(b) plans. The end of March, however, was too late for people who had already taken Required Minimum Distributions for 2020.

To remedy this situation, the IRS issued Notice 2020-51 on June 25, which allows taxpayers to replace Required Minimum Distributions taken year-to-date. Taxpayers now have until August 31 to replace the funds, and this includes replacing funds from an inherited IRA. Furthermore, taxpayers can replace multiple distributions because the "one rollover per year" provision does not apply for 2020.

Why does this matter to you and your philanthropic clients?

- First, the ruling itself is unusual, in that the IRS seems to have engaged in what could be construed as lawmaking. We're keeping an eye on rulings like this to gain an understanding of the reach of the IRS during times of crisis.
- Second, for your clients over 70½ who were already planning to give their Required Minimum Distributions to charity this year, nothing has changed about their ability to do so. Be sure to take a careful look at each client's 2020 tax situation. It could still be most advantageous for a client to make a Qualified Charitable Distribution instead of forgoing the Required Minimum Distribution or replacing the funds through the special rollover provisions now in place for 2020.

Donor privacy protections now official

Many of you have been tracking developments related to the disclosure of donor identity and proposed IRS regulations to clarify the rule's applicability.

You may recall that focus on this issue increased on July 30, 2019, when a Montana federal district court judge set aside the IRS's Revenue Procedure 2018-38. Under that Revenue Procedure, the IRS had removed the Schedule B disclosure requirements for Section 501(c)(4) and several other forms of tax-exempt entities.

Because the court based its ruling wholly on procedural grounds, advisors still remained concerned that information could be accessed by the public regarding clients' contributions to 501(c)(4) social welfare organizations and 501(c)(6) trade associations.

That concern has now been laid to rest. The IRS's final regulations, effective on May 28, 2020 (which may be applied to returns filed after September 6, 2019) retained the provisions in the proposed regulations requiring that only 501(c)(3) charitable organizations and 527 political organizations report names and addresses of substantial contributors during a taxable year.

The net-net here is that your clients who are giving money to certain organizations that are tackling controversial social issues on either end of the political spectrum are less likely to have their identities revealed, sparing your clients from potential harassment. In an era when more and more people are mobilizing to stand up for their beliefs and causes, the IRS's nod to free speech and privacy is likely to be a welcome development.

Galas look different, but the tax rules are still sticky

For many charities that rely on events to achieve annual fundraising goals, the cancellation of 2020's Met Gala (which raised an estimated $15 million in 2019) came as a blow, signaling that live galas and auctions might not be back anytime soon.

Still, many organizations are moving forward with virtual fundraisers. What should you keep in mind as you advise clients who routinely support charities through events?

The rules for charitable deductions still apply, meaning that the IRS only allows a tax deduction for the portion of the ticket price for which your client received nothing of tangible value in return. So, when the charity sends a receipt for the gift, your client will see that the charity has subtracted the fair market value of the perks — food, beverage, entertainment, T-shirts, and other goodies — from the full amount of the contribution. But, in the case of virtual events, the charity may skip "tickets" and perks altogether, which means your client's contribution is entirely a donation to the charity itself, with no benefit back to the client.

Regardless, it is still important to consider carefully the implications for your clients who want to purchase event tickets using their donor-advised funds. While straightforward gifts to charities from donor-advised funds are perfectly fine (and indeed, one of the primary purposes of donor-advised funds), it's problematic for a client to buy an event ticket using donor-advised fund dollars. So problematic, in fact, that the IRS has issued proposed regulations which, if enacted, will confirm its position that a donor-advised fund is prohibited from paying for event tickets on behalf of an advisor to the fund. The regulations would make it clear that the donor-advised fund cannot even pay for the charitable portion of the ticket (the ticket price minus the fair market value of perks flowing back to the donor advisor).

It's important for your philanthropic clients to pay attention to this. The proposed regulation includes fines for violations that can be imposed on your client as well as on the community foundation or other donor-advised fund sponsoring organization.

To be on the safe side, even in the case of virtual events, be sure to advise your clients that they should not attempt to use money in their donor-advised funds to purchase event tickets of any kind.

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