How Savings and Retirement Benefit Distributions May Prudently Be Used to Make Charitable Gifts

By Albert Feuer

Individuals often use their savings or retirement benefits to make charitable gifts. However, such benefit distributions, other than those from a Roth individual retirement arrangement, are generally included in the individual's gross income when received.[1] Furthermore, individuals may not be able to deduct for federal income tax purposes the charitable contributions they make during the period 2018 to 2025 because the 2017 Tax Cuts and Jobs Act substantially limited the deductibility of state and local taxes,[2] eliminated miscellaneous itemized deductions,[3] and dramatically increased the applicable standard deductions.[4] Thus, these individuals would incur an income tax liability without any offsetting tax benefit for the charitable contribution. This article discusses how savings and retirement benefit distributions may be prudently used to make charitable contributions.[5]

I. Tax-Favored Savings and Retirement Benefit Plans and Arrangements

The Internal Revenue Code of 1986, as amended (the "Code"), treats certain savings or retirement plans and their benefits favorably. For purposes of this article, we will confine our attention to plans and arrangements, such as 401(k) plans, pension plans, or individual retirement accounts, which do not restrict the purposes for which such distributions may be used.[6] We will not discuss arrangements, such as health savings accounts,[7] which restrict how the distributions may be used.[8] All section references are to the Code, unless otherwise specified.

A public or private employer may establish and maintain a pension, profit-sharing, or stock bonus plan that is funded with a trust, custodial accounts, or group annuity contracts. A tax-qualified trust plan is such a plan that meets the requirements of §§ 401(a) and (f). A 401(k) plan is a tax qualified trust plan that meets the requirements of § 401(k). The Federal Thrift Savings Plan, in which many federal civilian employees are participants, has terms similar to those of a 401(k) plan,[9] and is treated for federal income tax purposes as a tax-qualified trust plan.[10] An employer may also fund a pension or profit-sharing plan with individual annuity contracts issued by insurance companies. A tax-qualified annuity plan is such a plan that meets the requirements of § 404(a)(2). A pension, profit-sharing, or stock bonus plan that is either a tax-qualified trust plan or a tax-qualified annuity plan shall be referred to as a tax-qualified plan. Such a plan is not subject to the tax on its earnings,[11] and plan participants and their beneficiaries are not taxed on their benefits until and to the extent that their respective benefits are distributed.

A public school or a tax-exempt organization that is tax-exempt under § 501(c)(3) may establish and maintain deferred compensation benefits for their employees that is funded with individual annuity contracts issued by insurance companies or custodial accounts using regulated investment company stock. A 403(b) plan is such a plan that meets the requirements of § 403(b), including a limit on annual deferrals. These plans, like 401(k) plans, permit an employee to make tax-deductible (pre-tax) contributions of a portion of his or her compensation to a plan, and may, but need not, permit additional employer contributions. Such a plan is not subject to the tax on its earnings, and plan participants and their beneficiaries are not taxed on their benefits until, and to the extent that, their respective benefits are distributed.[12]

A government or a tax-exempt organization that is tax-exempt under § 501(c)(3) may also establish and maintain another kind of deferred compensation plan for its employees. A 457(b) plan is such a plan that includes a limit on annual deferrals. Non-governmental § 457(b) plans may not be funded,[13] but governmental § 457(b) plans must be funded.[14] Like 403(b) plans, employer contributions are permitted. As with tax-qualified plans, participants and beneficiaries in such plans only become subject to income tax on the benefits under such a plan when they receive the benefits.[15]

An individual may establish an individual retirement arrangement. An individual retirement account is such an arrangement funded with a trust, trusts or custodial accounts, that meet the requirements of § 408(a) or § 408(h). An individual retirement annuity is an arrangement funded with annuity or endowment contracts issued by insurance companies, that meets the requirements of § 408(b). An individual retirement account or an individual retirement annuity shall be referred to as an IRA, and the individual funding such an IRA shall be referred as an IRA participant, and the person or persons entitled to the survivor benefits shall be referred to as an IRA beneficiary, and the IRA shall

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become an inherited IRA.[16] An IRA may be part of an employer benefit plan, such as a SEP Plan,[17] a SIMPLE plan,[18] or a tax-qualified plan.[19] IRAs are not subject to tax on their earnings.[20] IRAs may be designated as Roth IRAs, and distributions from such IRAs are generally not subject to income tax.[21] IRAs not so designated are called traditional IRAs, and their benefits are taxed when received by a participant or beneficiary.[22]

Tax-qualified plans, 403(b) plans, 457(b) plans, and IRAs provide both lifetime and survivor benefits. Participants are entitled to the lifetime benefits, and beneficiaries of those participants are entitled to the survivor benefits. Each such plan or arrangement must file a Form 1099-R with the Internal Revenue Service each plan year that it makes any plan distributions, and distribute that form to each person receiving a benefit distribution for such year describing the person's distributions.[23] United States citizens, United States resident aliens, and their estates may choose on IRS Form W-4P whether to have any federal tax withheld from their benefit distributions that are not eligible for rollover.[24] Eligible rollover distributions are subject to 20 percent mandatory withholding.[25] Eligible rollover distributions do not include survivor benefits other than spousal survivor benefits, which are the only such benefits that may be rolled over by the recipient.[26] Others are subject to 30 percent federal tax withholding, unless they file with the plan administrator an IRS Form W-8BEN showing a tax treaty provision that reduces or eliminates the withholding.[27]

II. Tax-Favored Savings and Retirement Benefit Distributions

The Code has minimum distribution rules (the "MRD Rules"). In particular, most tax-favored savings and retirement plans must make minimum annual distributions to each participant who has reached age 70½.[28] If these rules are violated, the Code imposes on the participant a 50 percent excise tax which is imposed on the difference between the required minimum amount (MRD) and the actual amount distributed in such year.[29] This tax is in addition to the income tax payable on the benefit distributions the participant receives in a tax year. However, plan participants who do not own a large part of the plan sponsor need not begin their distributions until April first of the calendar year following the later of the termination of employment or reaching age 70½.[30] Traditional IRA participants must similarly begin taking distributions on or before the April first of the calendar year following the year the participant reaches age 70½.[31] The Code does not require Roth IRA participants to withdraw funds from their Roth IRAs, but does require their beneficiaries to begin taking distributions on or before the April first of the calendar year following the year when they reach age 70½.[32]

There may be a tax basis associated with a participant or beneficiary's interest in a tax-qualified plan, § 403(b) plan, § 457(b) plan, or an IRA. Such basis may arise from the participant's after-tax contributions or deemed after-tax contributions to the plan or arrangement.[33] The basis allocation rules depend on whether benefits are distributed to a participant or a participant's beneficiary or whether the benefits are transferred to another IRA or a tax-favored plan.

The taxable portion of each benefit distribution from a tax-qualified plan or a § 403(b) plan to a participant, or to the participant's beneficiary, is computed by allocating a pro rata portion of the basis to each distribution.[34] For IRA distributions the allocation is made by treating all of the recipient's traditional IRAs as a single traditional IRA, all the recipient's traditional IRA distributions during such year as a single distribution, and the contract is valued as of the end of the year, and that value includes all of the distributions during such year.[35] In contrast, plans and distributions are not consolidated for these basis computations even if they share a common sponsor.

If a benefit transfer is made from one plan or IRA to another plan or IRA, the first dollars are treated as coming from the pre-tax dollars.[36] Neither the amount of such a transfer nor the basis is added back to compute the gain (basis) on those benefit distributions from an IRA during the same year that are not transferred directly or rolled over to another plan or IRA. Otherwise, the IRA consolidation rules may not allocate the correct basis to those distributions to participants or beneficiaries.

Example: A participant, Jill, directs her traditional IRA, when it has a value of $100,000 and a basis of $20,000, to transfer $75,000 directly to her tax-qualified plan account. The IRA would continue to have a basis of $20,000, but the value would decrease to $25,000. If the $25,000 were then distributed to Jill, Jill would be subject to ordinary tax on the difference between $25,000 and the $20,000 basis, i.e., $5,000.

If the participant initially directs her traditional IRA, when it has a value of $100,000 and a basis of $20,000, to transfer $85,000 directly to her tax-qualified plan account, the transfer amount would exceed the pre-tax amount of $80,000 by $5,000. Thus, the basis would be decreased to $15,000, i.e., the remaining value of the IRA. There would only be gain on a post-transfer distribution to the participant if at such time the value of the IRA exceeded its post-transfer value of $15,000.

III. Charitable Contribution Options for a Participant or a Beneficiary

Many tax-qualified plans, § 403(b) plans, and § 457(b) plans provide that participants or beneficiaries may not assign their lifetime benefits to other persons, such as charities. However, neither tax-qualification rules nor the Employee Retirement Income Security Act of 1974, as amended and the regulations thereunder (ERISA), permit such assignments. The so-called alienation prohibition in both statutes[37] does not apply to voluntary revocable assignments.[38] Moreover, there is no assignment prohibition applicable to IRAs. Such assignments, however, do not affect the assignment-of-income principles, which would require that such distribution be included in the gross income of the participant. Thus, we will disregard assignments other than those pursuant to the qualified charitable distribution rules which, as discussed below, override those principles for certain IRA distributions.

For simplicity, the term participant will include any of the participant's individual beneficiaries. We will set forth considerations that determine the prudence of such individuals making charitable contributions with the individual's savings or retirement benefits. An earlier and more comprehensive article by the author about charitable giving describes how a participant who wishes to have a charity receive all or a portion of his or her survivor benefits may do so in a tax-efficient fashion.[39]

A. Direct Payments of Lifetime Benefits to a Charity

Code Section 408(d)(8) sets forth the conditions in which a charitable distribution of a participant's savings or retirement benefits is not includible in the participant's gross income.[40] A qualified charitable distribution (QCD) is a distribution which satisfies those requirements. It may not be deducted, and may only be made when such participant is required to withdraw savings or retirement benefits.[41] Such treatment is particularly helpful to lower-income and middle-income taxpayers required by the Code to take MRDs who wish to make charitable contributions without suffering adverse income tax consequences. However, the provision is not limited to such taxpayers nor to withdrawals made to satisfy the MRD Rules.

QCDs may only be made from IRAs.[42] IRAs that are part of a tax-qualified plan may be used to make QCDs.[43] Otherwise, QCDs may not come from a tax-qualified plan, § 403(b) plan, or § 457(b) plan.[44] A QCD may only come from an IRA associated with a SEP Plan or a SIMPLE Plan, if under the plan no employer contribution is made for the plan year ending with or within the IRA owner's taxable year in which the individual makes the charitable contribution.[45]

The distributions must be made "on or after the date that the individual for whose benefit the plan is maintained has attained age 70½."[46] Thus, it is not sufficient for the individual to reach 70½ during the year the distribution to the charity is made. Individual beneficiaries of an inherited IRA may make QCDs, which is why we treat them as IRA participants for these purposes.

The distributions must be made to an entity described in § 170(b)(1)(A) other than a supporting organization or a donor-advised fund.[47] The described entities include churches, tax-exempt educational or health organization, and charities with broad public support, but not private non-operating foundations.[48]

The exclusion is limited to $100,000 each taxable year.[49] The limit is not applied to each of the taxpayer's IRAs, but to all of the taxpayer's IRAs considered collectively. Each spouse is entitled to a separate $100,000 regardless of whether the spouses filed jointly or not. In contrast to the deduction for charitable deductions which may be carried over for five years if in excess of the taxpayer's annual limit, there is no provision for a carryover to future years of the exclusion for any excess distribution.[50] Nor is there any provision to carryover any unused portion of the $100,000 in one year to future years.

A deduction for the entire distribution must be otherwise allowable under § 170 (determined without regard to the contribution percentage limits of § 170(b)).[51] Thus, the distribution may not be used to make a transfer in part to a charitable gift annuity[52] or a charitable remainder trust,[53] because the entire distribution would not be deductible. The participant must obtain the same kind of substantiation as the participant would obtain for direct contribution of the same funds.[54] Furthermore, the distribution may not be used to obtain any *quid pro quo*, such as admission privileges to a museum in exchange for a contribution to a tax-exempt museum, or small gift for a contribution to a public broadcasting station. It is, therefore, advisable to separate QCDs to a charity that will result in no such exchange from any *quid pro quo* donations to the same charity. The fact that the participant benefits by using the distribution to fund a charitable pledge is not a benefit that prevents the participant from using the QCD provisions.[55]

The IRS has approved two ways for a participant to arrange for a distribution to a qualifying charity. Both use a "check from an IRA made payable to a [qualifying] charity."[56] The IRS permits participants, as well as plans, to deliver the check.[57] If the participant wishes to be responsible for transferring the check, the participant will deliver the check, which may also make it easier for the participant to obtain the acknowledgment of receipt by the charity. The financial institution may require these distribution requests not only be signed but be notarized or have a bank certification. Moreover, some institutions permit customers, who ask, to write checks on the IRA and send the checks to the charities. In any case, the participant may wish to ask the IRA trustee or custodian for copies of the presented check to show the charity received the funds. Furthermore, some institutions will, at an account holder's direction, transfer funds from the holder's IRA account directly to a charity's account, even at another institution. Such transfers eliminate any question about who received the funds, and that the funds were transferred in a taxable year, and appear to satisfy the QCD requirements, but do not provide a traditional cashed check as evidence of the transfer.

No income tax withholdings are required to be made from a QCD, which by definition is not includible in the participant's gross income and thus generates no income tax, even if a distribution directly to the participant would be subject to such withholding.[58] However, some financial institution QCD forms ask whether participants wish to have taxes withheld from such distributions.

B. IRS Reporting and Disclosure Rules for Qualified Charitable Distributions

The IRS has directed plans to report QCDs on IRS Form 1099-R in the same manner as if the distribution has been paid directly to the participant, i.e., "report the full amount of the charitable distribution on the line for IRA distributions." This is followed by:

> How do I report a qualified charitable distribution on my income tax return?
>
> To report a qualified charitable distribution on your Form 1040 tax return, you generally report the full amount of the charitable distribution on the line for IRA distributions [item 4a]. On the line for the taxable amount [item 4b], enter zero if the full amount was a qualified charitable distribution. Enter "QCD" next to this line. See the Form 1040 instructions for additional information.[59]

The 2018 Form 1040 instructions do not refer to, suggest or require that any backup for the QCD transfer or transfers to the charity be attached to the individual tax return.[60]

A QCD has the same effect on the basis of the participant's IRA as if the participant had transferred the same distribution to a tax-qualified plan rather than a charity. In short, the pre-tax dollars are treated as distributed first.[61] Thus, if the participant's QCD for 2018 exceeds the pre-tax dollar portion of the participant's IRA, the participant will be treated as withdrawing a portion of his or her total IRA basis. Although the Form 1040 instructions do not discuss the use of the IRS Form 8606 in these circumstances, it would seem appropriate to show the basis reduction on the IRS Form 8606 even though there is no gain.[62] In contrast, if the participant withdrew the same distribution amount from an IRA, as discussed above, a pro rata portion of the basis would be allocated to the distribution, whether he uses the proceeds for his personal needs or to make a charitable contribution. Thus, the basis would be reduced by a greater amount than with a QCD, and the taxable gain on subsequent distributions would be greater than would have occurred with a QCD.

Example: On November 23, 2018, Jeff, age 75, directed the trustee of his IRA to make a distribution of $24,000 directly to a qualified § 501(c)(3) organization (a public charity that is not a donor-advised fund or a supporting organization). This was the only distribution he requested for 2018, when his MRD was $3,000 and he had no other IRAs during 2018. Suppose that at the start of the year Jeff's IRA had a basis of $10,000, its value immediately before the distribution was $30,000, and its year-end value was $8,000, which is $2,000 more than its value immediately after the QCD. Because Jeff was at least age 70½ throughout 2018, and the distribution was made directly by the trustee to a qualified organization, and the $24,000 distribution exceeds the $20,000 of pre-tax dollars then in the IRA, the entire $20,000 is a QCD. The remaining $4,000 reduces his IRA basis from $10,000 to $6,000.

By contrast, if the $24,000 distribution were made directly to Jeff, the basis allocation would not be made until the end of the year. At such time we would add the $24,000 distribution to the year-end balance of $8,000 and get $32,000 before doing the pro rata basis adjustment for 2018. In particular, 24,000/32,000 or 75% of the $10,000 basis, i.e., $7,500, would be allocated to the distribution and the year-end basis would be reduced to $2,500, rather than $6,000. In both cases, the $3,000 MRD requirement is satisfied, but the direct payment to Jeff rather than a QCD would result in a smaller post-distribution basis and thus less favorable tax treatment on future distributions.

If Jeff chose the QCD option for 2018, the IRA trustee would have sent him a 2018 Form 1099-R showing a normal distribution of $24,000. Jeff would include the total distribution ($24,000) on line 4a of Form 1040. Jeff enters -0- on line 4b. He also enters QCD next to line 4b to indicate a qualified charitable distribution. Because Jeff made a $4,000 distribution of nondeductible contributions from his IRA, he would file Form 8606 with his return showing that his IRA basis decreased by $4,000 to $6,000.

If Jeff itemizes deductions and files Schedule A with his Form 1040, the $4,000 portion of the distribution attributable to the nondeductible contributions may be deducted as a charitable contribution if Jeff can itemize his deductions in such year. He could not deduct as a charitable contribution the $20,000 portion of the distribution that was not included in his income.

C. Non-Tax Detriments to Receiving Benefits Before Making Charitable Contributions

A participant or beneficiary who receives savings/retirement benefits that he or she then contributes to a charity may suffer a number of non-tax detriments to the extent the benefits are included in the individual's gross income, even if the individual may deduct the contribution in full.[63] To the extent the benefits are like other after-tax funds, which are excluded from the individual's gross income, such as distributions from a Roth IRA more than five years after the participant set up such accounts,[64] the below detriments may be disregarded.

First, for upper-income taxpayers, the inclusion of the savings/retirement benefits in gross income may cause the taxpayer's investment income to be subject to the 3.8 percent Medicare tax. Such tax applies to the lesser of net investment income or the excess of modified adjusted gross income more than $200,000 for single taxpayers and $250,000 for married couples filing jointly.[65] The savings/retirement benefits are not treated as investment income for purposes of this tax.[66] This would not be a concern for an individual with very high taxable income, who would be subject to the Medicare tax regardless of whether the savings/retirement benefits are included in the individual's gross income.

Second, upper-income taxpayers who qualify for certain non-tax benefits may not qualify for those benefits if their gross income is increased by savings/retirement benefits. For example, in New York City, a tenant may lose the right to pay below-market rent to reside in an apartment if his or her "federal adjusted gross income as reported on the New York state income tax return" exceeds $200,000 for two years.[67] Again, this would not be a concern for an individual with very high taxable income, who would not be eligible for such rent benefits regardless of whether the savings/retirement benefits are included in the individual's gross income.

Third, taxpayers of various incomes may not continue to qualify for lower Medicare Part B (physician coverage) or Part D (drug coverage) premiums if their gross income is increased by savings/retirement benefits. For example, the Part B monthly premium would be $134 if the modified adjusted gross income of a single taxpayer is at most $85,000 for single taxpayers and $170,000 for married couples filing jointly, but would be $428.60 if the modified adjusted gross income of a single taxpayer is more than $160,000 for single taxpayers and $320,000 for married couples filing jointly.[68] There are subsidies for Part D premiums for individuals and families with very low incomes,[69] so this will not be discussed further. Again, this would not be a concern for an individual with very high taxable income, who would in any case be charged the maximum Medicare premiums if enrolled in Medicare.

Fourth, lower-income taxpayers may not continue to qualify for an exclusion for all or a substantial part of their social security benefits if their gross income is increased by savings/retirement benefits. Fifty percent of the social security benefits of the taxpayer may be taxed if the sum of half of the social security benefits plus the modified adjusted gross income of a single taxpayer exceeds $25,000 for single taxpayers and $32,000 for married couples filing jointly.[70] Eighty-five percent of the social security benefits of the taxpayer may be taxed if the sum of half of the social security benefits plus the modified adjusted gross income of a single taxpayer exceed s $34,000 for single taxpayers and $44,000 for married couples filing jointly.[71]

D. Charitable Giving Alternatives to Qualified Charitable Distributions

Finally, it should be noted that a taxpayer may rationally prefer to make charitable contributions without taking advantage of the QCD rules. If the benefit distribution may be fully deducted and the inclusion in income has none of the adverse side effects described above, there is little reason to incur the administrative costs of complying with the QCD rules. If the taxpayer would have had to make a distribution in excess of the MRDs to fund the charitable contributions, it is usually more advantageous to donate appreciated long-term capital gains property (such as public securities) worth the excess, if any, which, like a QCD, is not included in gross income,[72] but, unlike a QCD, is fully deductible — a real advantage if the itemized deduction is available.[73] It may even be advantageous to take the capital gains deduction, if available, rather than the QCD for amounts less than or equal to the minimum required distribution because the taxpayer also obtains the benefit of avoiding the tax on the capital gain, which would be unavailable if the deduction were based on the required benefit distribution. Finally, many taxpayers made large contributions to donor-advised funds in 2017 to avoid the new limitations on itemized deductions for the period 2018 to 2025. Such taxpayers may wish to distribute such amounts to their traditional charities in the period 2018 to 2025 and thereby maintain their usual charitable-giving policies for those years, rather than make any additional charitable contributions with QCDs.

IV. Conclusions

There are tax-efficient ways to fund charitable contributions using tax-favored savings or retirement benefits, but other considerations, tax and otherwise, may make such usage imprudent. Lifetime savings or retirement benefits often do not need to be distributed, so may often be replaced with other sources for charitable contributions without adverse tax consequences. QCDs are often an advisable way to make charitable contributions if one has substantial interests in an IRA or IRAs, and has reached 70½, whether the IRA is inherited or not. This is particularly the case for those who wish to donate amounts equal to or less than the required minimum distributions and will not itemize their deductions, or those very concerned about avoiding inclusion of distributions in gross income, such as rent-regulated tenants with considerable income. However, if itemized deductions are available for the contributions, it may be more advantageous to use appreciated publicly traded securities to fund charitable contributions than QCDs, even if MRDs are required.

Endnotes

1. Earnings and benefits from a Roth individual retirement arrangement are generally not subject to taxes. Thus, such arrangements avoid rather than defer income tax liabilities.
2. Tax Cuts and Jobs Act, Pub. L. No. 115-97, 131 Stat. 2054 § 11042.
3. § 11045.
4. § 11021.
5. This article is based on a more comprehensive article, Albert Feuer, *Tax-Efficient Charitable Giving of Savings or Retirement Benefits*, 49 Comp. Plan. J. 153 (2018), 43 Tax Mgm't Estates, Gifts, and Trusts J. 237 (2018), abstract and link to full article available at http://ssrn.com/abstract=3249827 (last visited February 25, 2019) ("Tax-Efficient Charitable Giving").
6. *But see* I.R.C. § 72(t)(2)(e) (the early distribution 10 percent penalty for distributions from individual retirement accounts does not apply for distributions used for higher education expenses). All section references are to the Internal Revenue Code of 1986, as amended (the "Code"), and the regulations thereunder, unless otherwise specified.
7. § 223.
8. § 223(f)(4) (imposing a 20 percent surtax for distributions not used for qualified medical expenses).
9. *See* Summary of the Thrift Savings Plan (Jan. 2019), https://www.tsp.gov/PDF/formspubs/tspbk08.pdf (last visited Feb. 25, 2019).
10. § 7701(j).
11. §§ 402(a), §403(a)
12. § 403(b).
13. § 457(b)(6).
14. § 457(g).
15. § 457(a).
16. If the participant's surviving spouse is her or his beneficiary, the surviving spouse is treated as the IRA's participant, and the IRA is not treated as an inherited IRA. § 408(d)(3)(C).
17. § 408(k).
18. § 408(p).
19. § 408(q).
20. § 408(e).
21. § 408A(d)(4). There may be tax on income if distributions are made (1) less than five years after the establishment of any Roth IRA, or (2) to the participant before the participant attains age 59½. § 408A(d)(2). In such case, the basis for the arrangement would be the participant's contributions to the arrangement. § 408A(d)(4).
22. § 408(d).
23. *See generally* Department of Treasury, Internal Revenue Service, *2018 Instructions for Forms 1099-R and 5498*, https://www.irs.gov/pub/irs-pdf/i1099r.pdf (last visited Feb. 25, 2019).
24. § 3405(a)(2), §3405(b)(2).
25. § 3405(c).
26. *See, e.g.*, §402(c)(9).
27. *See* https://www.irs.gov/pub/irs-pdf/fw8ben.pdf (last visited Feb. 25, 2019).
28. § 401(a)(9).
29. § 4974.
30. § 401(a)(9)(C).
31. § 408(a)(6), § 408(b)(4).
32. § 408A(c)(5).
33. *See, e.g.*, § 72(f) (applicable to common-law employees participating in tax-qualified plans).
34. § 72(e). However, for lifetime annuities, the basis is allocated among the anticipated distributions. § 72(d).
35. § 408(d)(2)
36. Notice 2015-54.
37. § 401(a)(13) and ERISA § 306(d)(1), respectively.
38. Treas. Reg. § 1.401(a)-13(e).
39. Tax-Efficient Charitable Giving, *supra* note 5.
40. *See generally* I.R.S. Notice 2007-7, Part IX, 2007-1 C.B. 395, 400-01; Michael Kitces, *Rules and Requirements for Doing A Qualified Charitable Distribution (QCD) From an IRA*, https://www.kitces.