

## **President Obama Signs the Budget/Tax Bill on December 18, 2015.**

As last year, the President signed legislation Friday afternoon before traveling to Hawaii for a two week family vacation. This year he signed the "Military Construction and Veterans Affairs and Related Agencies Appropriations Act of 2016 (*Consolidated Appropriations and Tax Measures*)."

Included in this law is the Protecting Americans From Tax Hikes Act of 2015.

There are 4 provisions impacting IRAs.

First, the qualified charitable contribution/ distribution (QCD) rules were adopted on a permanent basis. A distribution made during 2015 qualifies as a QCD if the following three rules were satisfied - the distribution occurs during 2015, it is for an amount up to \$100,000 and the check is made payable to a qualifying charity. It will be interesting to see if the IRS will change its current administrative practice for QCDs. That is, the IRA custodian prepares the Form 1099-R showing the distribution as being fully taxable and then the individual must explain on his or her tax return that the distribution is not taxable as he or she made a QCD. Because the QCD rules are no longer temporary, one would think the IRS would now give serious consideration to assigning a special Form 1099-R code for the non-taxable QCD to expressly indicate the QCD is tax-free.

Secondly, modified the Internal Revenue Code rules for making a rollover contribution into a SIMPLE-IRA. Under existing law, the only distribution which was eligible to be rolled over into a SIMPLE-IRA was if the distribution had come from another SIMPLE-IRA or the same SIMPLE-IRA. That is, it was impermissible for a person to rollover a distribution from a traditional IRA into a SIMPLE-IRA or from a 401(k) plan into a SIMPLE IRA, from a 403(b) plan into a SIMPLE-IRA or from certain other employer sponsored plans. The new rules are effective for distributions occurring on or after December 19, 2015. Such distributions are now eligible to be rolled over into a SIMPLE-IRA as long as the individual has met the 2-year rule as set forth in Code section 72(t). Presumably and hopefully, the IRS will be revising its two Model SIMPLE-IRA Forms (Form 5305-S and Form 5305-SA) because Article I of such forms provide, "In addition the trustee will accept transfers or rollovers from other SIMPLE-IRAs of the participant. No other contributions will be accepted by the trustee." These forms were last revised in March of 2002 and as written do not allow for rollovers for distributions from any IRAs and plans other than another SIMPLE-IRA. CWF is revising its SIMPLE-IRA forms by adding this new rollover rule. Rollover certification forms will also need to be revised. The IRS should also be issuing a revised Rollover Chart as set forth in Publication 590A.

Thirdly, a "technical" amendment was adopted extending the deadline for rolling over certain airline payment amounts. In the FAA Modernization and Reform Act, a person had been authorized to rollover certain airline payments received with respect to certain bankruptcies. The rollover had to be accomplished by August 4, 2012. Such rollover contribution was authorized and it was not subject to the annual contribution limit. The new tax law extends the deadline to be 180 days after December 18, 2015 or June 15, 2016.

The fourth IRA provision is discussed in the adjacent article discussing a new de minimis rule which creates a major exception so that an IRA custodian will not be assessed the \$250 penalty for an incorrect Form 1099-R.