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Obama Administration Again Proposes Taxing Some Roth IRA Distributions And Other Law Changes

Below is a summary of the President's fiscal year 2017 budget proposal for IRA and pension law changes. Unsurprisingly, the proposals seek to reduce the tax benefits realized by individuals with higher incomes.

1. The law will "cap" the tax benefit (exclusion or tax deduction) that a person may receive from an IRA, 401(k) or other tax preferred plan at the 28% bracket. That is, those individuals in a higher tax bracket (33%, 35%, 39.6%, etc) would not be able to claim a tax deduction for the full amount or claim a full tax exclusion. This is the first proposal or discussion making some Roth IRA distributions taxable. New for 2016.

2. The standard RMD rules would apply to a person who had funds within a Roth IRA in the same manner as they know apply to funds within a traditional IRA, SEP-IRA and SIMPLE IRA. This change does not generate any additional tax revenues, but is being made to lower the amounts in Roth IRAs earning tax free income. Proposed in 2015. This change would only apply to those Roth IRA accountholders who attain age 70½ in 2016 or later.

3. Required distributions would no longer apply to individuals who had an aggregated balance of less than $l00,000 in IRAS, 401(k)'s and other retirement accounts. A special rule would apply in the case of certain defined benefit plans. Proposed in 2015.

4. A person who has after-tax dollars in an IRA or pension plan would lose the right to convert such dollars into a Roth IRA. That is, a person will be eligible to convert only "taxable" funds, he or she could not convert after-tax funds. New for 2016.

5. Require most non-spouse beneficiaries to take required distributions using the 5-year rule. The life distribution rule no longer could be used. This is a large revenue raiser and it raises greatly the taxes to be paid by nonspouse beneficiaries. This change would only apply if the IRA accountholder died on or after January 1, 2017.

6. The proposed law will "cap" the amount of funds a person may accumulate within tax preferred plans. This was also proposed in the 2015 budget proposal.

The person would be required to aggregate the balance he or she has within personal IRAs with the balance within all employer sponsored retirement plans. Once a certain limit is reached, then no additional contributions could be made by the individual or by the individual's employer on his or her behalf. The account balance could grow if due to earnings, but not on account of new contributions.

The law would permit a person to accumulate an initial balance of $3,400,000 as that is the actuarial equivalent of a joint and 100% survivor annuity of $210,000 per year. The $210,000 limit would be adjusted for cost of living increases.

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Law Changes,
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CWF Observation. This proposal would greatly complicate the administration of IRAs and pension plans. There would be a tremendous increase in the need for actuarial and accounting services. It may well be an employee would need to inform his/her current employer what he/she has accumulated in his/her IRAs and other pension plans.

7. The proposed law would allow certain nonspouse beneficiaries who mistakenly are paid a distribution from an inherited to roll over such distribution if certain rules are met. This was also proposed in the 2015 proposal.

8. The 401(k) plan rules would be changed so that an employer would have to let those employees working 500-999 hours per year for three consecutive years to be able to make elective deferral contributions. Under current law, an employer is not required to allow employees who work less than 1,000 hours to participate in the plan. Although the employer would have to let such employees make elective deferral, the employer would not be required to make any contributions, matching or profit sharing, on behalf of such employees.

9. The IRS and the DOL are big fans of automatic enrollment pension plans. Under current law an employer's decision to sponsor a pension or profit sharing plan is totally voluntary. Many small and moderate size employers choose to not offer a plan due to the regulatory complexity. The IRS and the DOL don't seem to accept why so many employers choose to not offer such plans. Their solution, change the law so an employer must offer a simplified retirement plan.

An employer with more than 10 employees which has been in business for at least two years would be required to offer a payroll deduction IRA program. Employees would automatically be enrolled to have 3% of compensation withheld unless they expressly waived coverage. An employee could have a larger percentage withheld. Funds could go into either a traditional IRA or a Roth IRA. To offset some of the cost for maintaining this plan there would various tax credits extended to the small employers.

10. The current tax rules applying to the taxation of net unrealized appreciation would be repealed. The general tax rule is, when a person takes a distribution from his or her IRA or 401(k) plan, such amount is combined with other wage or ordinary income for such year and taxed at the applicable marginal income tax bracket. Many times a person will move into a higher tax bracket on account of the IRA/401(k) distribution.

Current law allows an employee who has been distributed employer stock to be taxed differently. He or she will include the cost basis of the stock in his or her income for the year of distribution, but is able to defer further taxation to when the stock is subsequently sold. There is no time limit by when the individual must sell the stock. It may be the government won't see any tax revenues for 20-50 years.

Example. Jane works for ABC, Inc from ages 22-38. Her employer has a profit sharing which invests in employer stock. The corporation has been very successful. The corporation contributes stock which at the time contributed had a cost basis of $45,000, but has a value of $450,000 when distributed to her. Although she has various options, she elects to have the stock distributed to her in-kind. Under this method she includes the $45,000 in her income and pays tax on such amount. Now assume the stock appreciates to $600,000 and she then decides to sell the stock. She would have $555,000 of long term gain and it would be taxed at a rate of 28% under current law. That is, she will not pay any tax on the stock appreciation until she sells the stock. And at that time she will most likely qualify to pay tax at then existing capital gain rates on the stock gain. The current tax rate is 28% but there were times during 2009-2012 when the tax rate was 10%, 15% or 20%. This change would not apply to a person who was age 50 or older as of 12/31/15.

11. The current tax laws allowing a publicly traded company to claim a tax deduction for dividends paid with respect to stock held in an ESOP would be repealed.

Most of the above proposals have little chance of being enacted as the Republicans for the time being control Congress. The purpose of this article is, the politicians will certainly be discussing many of these same IRA and pension topics with some modifications. CWF believes it is only a matter of time before the law is changed to reduce the distribution period applying to an inheriting IRA beneficiary. The reason, the life expectancy approach means there is too long of a time of tax deferral and the government is waiting too long time to receive the tax payments associated with these tax-deferred funds. Tax laws should be reasonable, but what one person thinks is reasonable another person does not. Compromises will be made.

IRS Increases Filing Fees For Waiver of 60-Day Rollover Rule To $10,000

The IRS has increased the filing fee for a person to request the IRS to waive the 60-day rollover period and grant the person a new 60-day rollover period. Since 2001/2002 the tax law has provided that the IRS may waive the 60-day requirement where the failure to waive such requirement would be against equity or good conscience, including casualty, disaster, or other events beyond the reasonable control of the individual.

The chart below compares the fees for 2015 with those for 2016. Category number #4 for 2016 encompasses the 2015 categories #4-#10 for 2015. The filing fee is $10,000 for any one in category #4.

In 2015 the filing fee to request a 60 rollover waiver was $500, $1,500 or $3,000. If it is now $10,000, there will be very few taxpayers where it will make financial sense to seek a waiver. An individual who has a good reason they missed the 60-day period will need to consider hiring a tax attorney to sue the IRS in U.S. Tax Court. This IRS change is going to create real dilemmas for IRA custodians as much more work will be involved in getting the IRS to waive the initial 60-day period.

One would think it was near impossible that the IRS would increase the filing fees with respect to a person's request of the IRS to waive the 60-day rollover rule to $10,000 form $500, $1,500 or $3000 for an equity waiver situation, but the IRS is warring with the Republican controlled Congress and the new $10,000 filing fee is correct. The IRS has a Y adopted this policy to spite the U.S. Congress.

Note that the IRS chart contains good news for those non-bank financial entities wishing to qualify as a non-bank trustee. The fee decreases from $20,000 to $10,000.

Also note the fee for requesting special treatment on a missed Roth IRA recharacterization increases from $4,000 to $10,000.

Nina E. Olson, National Taxpayer Advocate, in her 2015 Annual Report to Congress mentions the IRS is adopting too much a pay-to-play tax system and this is inherently undesirable. Shifting compliance burdens to taxpayers is inconsistent with the IRS mission and taxpayers rights, and may reduce taxpayer compliance. the IRS1s mission is to provide American taxpayers top quality service by helping them understand and met their tax responsibilities and enforce the tax law with integrity and fairness to all. User fees discourage taxpayers from obtaining services that could help them understand and meet their responsibilities. Thus, if a fee discourages taxpayers from using IRS services, it may erode tax compliance, particularly if it combines with other burdens to make taxpayers lose interest in trying to comply.

The $10,000 filing fee is unwarranted and will lead to less IRA rollover compliance and will cause real tax difficulties for individuals who miss the 60-day rule due to some event beyond their control.

Revenue Procedure 2015-8 IRA/Employee Plans User Fees

01 Letter ruling requests.	
(1) Computation of exclusion for annuitant under § 72	$1,000
(2) Change in plan year (Form 5308)	$1,000
Note: No user fee is required if the requested change is permitted to be made pursuant to the procedure for automatic approval set forth in Rev. Proc. 87–27, 1987–1	
C.B. 769. In such a case, Form 5308 should not be submitted to the Service.	
(3) Five-Year Automatic Extension of the Amortization Period	$1,000
(4) Certain waivers of 60-day rollover period	
(a) Rollover less than $50,000	$500
(b) Rollover equal to or greater than $50,000 and less than $100,000	$1,500
(c) Rollover equal to or greater than $100,000	$3,000
(5) Change in funding method	$4,000
(6) Letter ruling request on Roth IRA Recharacterization	$4,000
(7) Approval to become a nonbank trustee (see §1.408–2(e) of the Income Tax Regulations)	$20,000
(8) Substitute mortality table under Rev. Proc. 2008–62	$14,500
(9) Waiver of excise tax of $1,000,000 or more on the liquidity shortfall under § 4971(f)(4)	$14,500
(10) All other letter rulings	$10,000

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(3) Five-Year Automatic Extension of the Amortization Period	$1,000
(4) All other letter rulings under jurisdiction of the Employee Plans Office	$10,000

Maximizing Contributions To a Roth IRA

A person wants to maximize the amount he or she contributes to a Roth IRA. The tax rules permit eight different types of contributions to a Roth IRS. In some years the person might be eligible to make just one of the types of Roth IRA contributions. In other years he or she might be eligible to make all eight types or might be ineligible to make any Roth IRA contribution.

In 1997 when the Roth IRA contribution rules were first enacted the law was written to prohibit individuals with higher incomes to make annual contributions and conversion contributions. In 2005, the law was changed effective for the 2010 tax year to permit any person who had funds in a traditional IRA, SEP IRA , SIMPLE IRA or 401(k) plan to convert such funds regardless of a person's income. This change permits a person to make a conversion contribution regardless of his or her income, of the couple's income, if married. In making a conversion contribution, an individual is required to include the distribution in his or her income and pay tax at the applicable marginal income tax rate.

The eight types of Roth IRA contributions are:

1. An annual contribution;
2. A conversion contribution from a traditional IRA;
3. A conversion contribution from a SEP-IRA;
4. A conversion contribution from a SIMPLE-IRA;
5. A direct rollover (i.e. a conversion) of non-Roth funds;
6. A direct rollover or rollover of Designated Roth funds;
7. A direct rollover or rollover of a deceased spouse's Designated Roth funds; and
8. A direct rollover (i.e. a conversion) of non-Roth funds from a deceased spouse's 401(k) plan;

A person is eligible to make an annual Roth IRA contribution for 2015 to the following extent, the lesser of his or her compensation or $5,500 if under age 50 and $6,500 if age 50 or older if two requirements are met. First, an individual must have compensation from self-employment or wage income. Secondly, the individual's modified adjusted gross income must be less than the following amounts:

$183,000 if his or her filing status is married filing jointly or as qualifying widower; or

$116,000 if his or her filing status is single, filing as a head of household, or married filing separately, but did not live with their spouse at any time during the year.

A person not meeting the above requirements is eligible to contribute a portion of the $5,500 or $6,500, as applicable, if his or her modified adjusted gross income is less than the following amounts:

$193,000 if his or her filing status is married filing jointly or as qualifying widower; or

$131,000 if his or her filing status is single, filing as a head of household, or married filing separately, but did not live with their spouse at any time during the year.

$10,000 if his or her filing status is married filing jointly and the person did live with his or her spouse during the year.

Two examples will illustrate the formula used to calculate a maximum Roth IRA contribution.

The maximum permissible Roth IRA contribution for a person with a MAGI within the applicable phase-out range is calculated: maximum contribution equals $5500 or $6500 as applicable multiplied by the amount determined by subtracting the applicable phaseout amount from the individual's MAGI divided by $10,000 or $15,000 as applicable.

Any person with funds in a traditional IRA, SEP-IRA and SIMPLE-IRA is eligible to convert all or a portion of most funds within the traditional IRA, SEP-IRA or SIMPLE-IRA. Excess contributions and required distributions are ineligible to be converted. Note that the income restrictions applying to Roth IRA annual contributions do not apply to Roth IRA conversion contributions.

Any person with funds in a 401(k) or other employer sponsored plan is eligible to move all or a portion of such funds into a Roth IRA. This is a type of conversion as the taxable portion moved into Roth IRA will need to be included in income and income taxes paid. Administratively, the IRS has adopted the approach that the 401(k) plan will report the distribution on the Form 1099-R either a direct rollover or as a reason code 7 or 1 and the IRA custodian will report the contribution as a rollover.

For illustration purposes, the following hypothetical situation is discussed. Jane Doe is a participant in her employer's 401(k) plan. She has a total 401(k) balance of $90,000. She also has a traditional IRA with a balance of $40,000 and a Roth IRA with a balance of $15,000. Within the 401(k) plan she has non-Designated Roth funds of $75,000 and $15,000 of Designated Roth funds. Of the $75,000 of non-Designated Roth funds, $10,000 is non-taxable basis and $65,000 is taxable. Jane has the following options available to her.

Option #1. Directly rollover the $90,000 to her Roth IRA. She will need to include in income the $65,000 of taxable funds.

Option #2. Directly rollover the $15,000 of Designated Roth funds into her Roth IRA. Directly rollover the $75,000 of non-Designated Roth funds into a Traditional IRA. No portion is included in income.

Option #3. Directly rollover the $15,000 of Designated Roth funds into her Roth IRA. Directly rollover the $10,000 of basis of non-Designated Roth funds into a Roth IRA and Directly rollover $65,000 into a traditional IRA. No portion is included in income.

If Jane Doe was married to John and she had designated John as her beneficiary and she predeceased John, John has the same three options as discussed above for Jane.

If Jane Doe was unmarried and had designated her daughter Laura, as her 401(k) beneficiary, Laura also has the same three options.

A person over his or her lifetime should be prepared to take advantage of the chances which exist to make a contribution into a Roth IRA. Sometimes a person will have the opportunity to make an annual Roth IRA contribution. Sometimes a person will wish to make a conversion contribution. Sometimes a person will be a participant in a 401(k) plan and eligible to make Designated Roth IRA contributions and will have the opportunity to convert via a direct rollover a portion. Sometimes a person will inherit 401(k) funds and will have the opportunity to convert via direct rollover a portion into a Roth IRA.

Types of IRAs Versus Types of IRA Contributions

Some older IRAs may be called rollover IRAs or conduit IRAs. Your IRA software may have such a type or category. Prior to 2001, if a person wanted to rollover IRA funds into a 401(k) plan, this could be done only if previously there had been a rollover from a 401(k) plan into a traditional IRA and there was no commingling with other regular IRA funds. Since 2001 the law has permitted regular IRA funds (if taxable) to be rolled into a 401(k) plan written to authorize such rollover contributions.

The preferred administrative approach is to longer think of an IRA as a rollover or conduit IRA. Why?

As discussed in the January 2016 newsletter, it is very important the 2015 Form 5498 (IRA Contributions) be prepared correctly.

In box 7 the IRA custodian must indicate the type of IRA maintained the individual. There are four types: traditional, SEP, SIMPLE and Roth. There is no "rollover" type for Form 5498 purposes.

It is possible to make a rollover contribution to each of the four types of IRAs. That is, box 2 is to be completed if a rollover contribution is made to the applicable type of IRA.

Set forth below are the numerous IRA contribution types. Not all of these contributions can be made to all of the four IRA types.

Types of Contributions

1. Annual or regular a. Spousal b. Postponed
2. Rollover and Direct Rollover
    a. From non-designated Roth account
    b. From Designated Roth account
    c. From Exxon Valdez litigation
    d. Certain Airline Payments
    e. Death Gratuities and SGLI
3. Storm Repayments
4. Conversion
5. Recharacteriztion

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Types of IRAs,
Continued from page 5

6. Transfer
    a. From another same type IRA
    b. Surviving spouse elects to treat as own
    c. Incident to a divorce
    d. From an inherited IRA
7. SEP-IRA contributions
8. SIMPLE IRA contributions

An IRA custodian is required to report all contributions on the Form 5498 except non-reportable transfers. There must be separate Form 5498 prepared for each IRA plan agreement which a person has. For example, Jane Doe has a traditional IRA, SEP-IRA, and Roth IRA. Three Form 5498s will be prepared for her; each will show the applicable IRA type and each will show the types of contributions (annual, rollover, transfer, etc.) to that IRA.

Some IRA representatives are confused because they think that there should also be an IRA type called a rollover IRA or a conduit IRA. They are correct, but for purposes of preparing the Form 5498 there are only 4 types and rollover is not one of them.

It used to be fairly common for an IRA to be called a rollover IRA or a conduit IRA. At one time a person was authorized to rollover funds within a traditional IRA to a 401(k) plan only if such funds had been rolled over to the IRA from the 401(k) plan. This rule no longer applies and regular IRA funds (as long as taxable) may not be rolled over into a 401(k) plan or other plan.

It's Impossible for a Revocable Trust to "Own" an IRA Prior to the Accountholder's Death

An attorney has instructed two IRA accountholders to have the IRA custodian retitled the ownership of their IRAs so that their joint revocable trust somehow controls their IRAs.

The tax rules do not permit the bank to agree with this request. A joint revocable trust cannot own an IRA.

An IRA is a revocable trust similar to the non-IRA revocable trust being established. But there are very important differences. The IRA is a tax preferred or favored account. In order to qualify for the special tax benefits associated with an IRA, certain rules must be met An IRA is established on behalf of one person. There can never be joint IRA.

Federal tax law requires that a bank or similar entity serve as the IRA custodian. An individual or his or trust is not authorized to serve as the custodian or trustee of the IRA. The IRA custodian must act on behalf of the individual. It is not authorized to act on behalf of an individual's trust, regardless if the trust is an individual trust or a joint trust.

The attorney should be coordinating these two trusts, but the non-IRA trust cannot somehow own the IRA. If the attorney, accountant or financial planner who believes this can and should be done, then he or she should write a legal tax opinion setting forth their authority and explaining what tax and non-tax goals are being accomplished.

It is certainly possible fox an individual as an IRA accountholder to designate a trust, including a joint revocable trust as the beneficiary of his or her IRA. In some situations this may be a prudent, in other times it is not. Generally, naming a trust does not simplify or reduce the taxes to be paid. In fact, the opposite is many times true, designating a trust simply complicates things and results in more income taxes being paid than otherwise would have been the case.

From an income tax planning viewpoint, it is almost always best if a person designates his or her spouse as the primary beneficiary and then children or other family members as the contingent beneficiaries and not designate a trust. If a trust is designated as the beneficiary spouse loses the right to treat the decedent's IRA as his or her own IRA.

If a trust has been designated as the beneficiary and "inherits" the IRA, such trust must file an income tax return for every year it is in existence. The tax rates applying to trust axe generally substantially higher than the tax rates applying to individuals. The trust may or may not qualify as a simple trust versus a complex trust. Closing or terminating the trust generally means the IRA would also have to be closed and taxes paid at that time rather than stretching out distributions over the life expectancy of the beneficiary.

Considerations When a Hard to Value Asset Is Distributed In-Kind

The IRS reporting of IRA transactions involving hard to value assets is certainly not boring. The email set forth below discusses the reporting applying to the distribution of a worthless hard to value IRA asset to an individual who is over age 70½. The IRA trustee and the IRA grantor will have a number of considerations.

Situation/Question. Worthless Security Distribution

We have a client, over a e 70½, with a hard to value asset in his portfolio. The last valuation we had reported a valuation of $35,000 (which we were never confident was accurate) and we recently received a new valuation from the company that shows it is basically worthless. Can we just distribute this asset out to him with basically no tax consequence and no reporting? Or how do we proceed? Since it is now worthless we would like to get it out of the account and off our system.

CWF's Response

Your IRA grantor is over age 70½. Most likely he is receiving another distribution which must be reported on a Form 1099-R with a reason code 7. Under the IRS reporting rules all distributions from the same IRA with the same distribution code are aggregated on the same Form 1099-R. The IRA trustee must prepare a separate Form 1099-R if a different reason code applies.

The question is, must another Form 1099-R be prepared with a reason code K or is preparation of a separate Form 1099-R not required as the value is less than $10.00?

The IRS instructions mention that a Form 1099-R is not required to be prepared if the annual distribution amount is less than $10. The IRS encourages an IRA trustee/custodian to file a Form 1099-R even if not required.

The rule requiring preparation of the Form 1099-R is a <u>per person per plan agreement rule</u> and is not a per reason code rule. This means, if he takes a reason code 7 distribution from his IRA plan agreement and it exceeds $10 and he is also is distributed the hard to value asset from this same IRA plan agreement, then the IRA trustee must prepare two separate Form 1099-R's. This is so even though the value of the distribution of the hard to value asset is $0.00.

If the hard to value asset being distributed was held under one plan agreement and the other hard to value assets under a different plan agreement, the approach of not preparing a Form 1099-R for a distribution of a worthless asset would be possible.

Is the issuer still in business? Any bankruptcy action? What chance for recovery?

This situation does present some good tax planning opportunities for the individual. He or she should want to take a distribution when the value has decreased greatly. But there is also a great opportunity for aggressive tax results when a hard to value asset is distributed from an IRA with no value or with minimal value. For example, the stock or debt instrument is distributed with a near $0.00 value but there is some possibility the asset value might rebound. The individual wants the rebound to occur after the asset has been distributed from the IRA. The individual will be able to pay capital gain tax on the increase in value assuming the time requirements are met, but the taxpayer is not required to pay ordinary income tax as is the rule for IRA distributions.

I suggest receiving a written instruction from the IRA accountholder that he requests the in-kind distribution and that he agrees with the indicated distribution value.

From the IRS viewpoint, I can see the IRS arguing (and maybe bank regulators) why not continue to maintain the asset in the IRA as the value can only go up. One can argue that the distribution of this asset will make the administration of the IRA less complicated and less expensive. The individual can argue, it is in my best interest from a tax planning standpoint to withdraw it from the IRA when the value has decreased and to save on administrative expenses.

Will There be a Special 1099-R Distribution Code for QCDs?

There is no special IRA distribution code for 2015 or 2016 and for the reasons discussed below most likely there won't ever be a special code.

Under current IRS procedures the IRA custodian prepared the 2015 Form 1099-R to show the distribution as being fully taxable and the individual has the duty to complete his or her federal income tax return to reflect that the qualified charitable distribution (QCD) need not be included in his or her income and is not taxable.

It is true that the tax/budget bill signed into law by President Obama on December 15, 2015, did make permanent: the qualified charitable distribution tax rules. In general, an individual is able to exclude from his or her income certain distributions given to a charity. Such rules did apply for the 2006-2014 tax years, but they were temporary and it was not known if such laws would be adopted on a permanent basis.

For years 2006-2015 the IRS did not create a special distribution code for the Form 1099-R to be used to the. report that an individual had made a QCD. This may have been because the IRS was not going to write its software or have IRA custodians write their software for a temporary law.

The IRS released the instructions for the 2015 Form 1099-R in mid-2014. The 2016 instructions were first issued in mid- 2015. See the underlined portion of page 1 of the 2016 instructions. "There is no special reporting for qualified charitable distributions under section 408(d) (8) . . . . . I f

The 2015 and 2016 IRS instructions set forth the same procedures which have existed since 2006/2007. There is no special reporting.

The IRS instructions to the IRA custodian for completing the 2015 Form 1099-R indicate that it is to use a reason code 7 and report it as any other general distribution. That is, box 1 (gross amount) and box 2a (taxable) amount are to be completed with the same amount, box 2b tax amount not determined is to be checked and the reason code 7 is to be inserted in box 7. A code 7 is used to report almost all distributions to a person who is age 59½ or older. Note the IRS does not have a special code for a distribution made to a person who is age 70½ or older.

The IRS instructs the individual that he or she must explain the IRA distribution is not taxable as a qualified charitable distribution was made. See the instructions for lines 15a and (b) of Form 1040 (see attached) or the applicable lines for Form 1040A. These require the individual to complete such forms to indicate that a certain portion of a distribution is not taxable as the person made a QCD.

Once in awhile some individuals and some tax preparers will state their belief that the IRS must have a special code for a QCD distribution to indicate that the amount is nontaxable.

The IRS has not such special code. It is possible the IRS may develop a special code now that the QCD rules are permanent. But this is not a certainty.

In 2007/2008 a permanent law was enacted authorizing an IRA. owner to move money from his or her traditional IRA and such distribution is not taxed if certain requirements are met. This movement is called a qualified HSA funding distribution. The law is, it is non-taxable.

The IRS did not and has not created a special code to report this qualified HSA funding distribution. The IRS adopted the same reporting approach as it had adopted for a QCD. The IRA custodian reports the distribution as being fully taxable and it is up to the individual to explain that it is not taxable as he or she made a qualified HSA funding distribution.

Most likely, the IRS will keep the same reporting approach for QCDs and HFDs and will not create a new code. However, we will need to monitor the IRS as one never knows if and when the IRS will change its approach.