

# Henderson & Caverly Pum Charney LLP

## EXEMPT ORGANIZATIONS NEWSLETTER

April 2017

### SPECIAL CHARITABLE CONTRIBUTIONS FOR CERTAIN IRA OWNERS

As an alternative method for donating to a charity, certain taxpayers may transfer funds from their IRA to an eligible charitable organization. The following is a list of ten things eligible taxpayers who are considering making such a donation will need to know.



1. The IRA owner must be age 70 ½ or older.
2. The donor must directly transfer the money tax-free to an eligible charitable organization.
3. Not all charities are eligible. For example, donor-advised funds and supporting organizations are not eligible recipients.
4. The maximum amount that an IRA owner may transfer annually tax-free to an eligible organization is \$100,000. If donors wish to take funds from their IRA to contribute more than \$100,000 to charity, they cannot exclude the additional amount from their gross income. Rather, they must follow the general rules pertaining to percentage limitations and itemized contribution reductions. The provision applies to each individual's IRAs. In many marriages, both spouses will have IRAs. Therefore, it's possible that the spouses could team up, each rolling over \$100,000 for a \$200,000 rollover contribution to a single qualified charity.
5. Recent legislation made the IRA charitable contribution option permanent and available to eligible IRA owners, regardless of whether they itemize their deductions. With the Protecting Americans from Tax Hikes (PATH) Act of 2015, the qualified charitable distribution ("QCD") rules have finally been made permanent, making it easier to engage in proactive charitable giving strategies that help to minimize the tax bite of an IRA's Required Minimum Distribution (RMD) obligations.
6. Distributions from employer-sponsored retirement plans, including SIMPLE IRAs and simplified employee pension plans – commonly referred to as SEP Plans – are not eligible.
7. To qualify, the funds must be contributed directly by the IRA trustee to the eligible charity.
8. Amounts transferred are not taxable and no deduction is available for the amount given to the charity unless non-deductible contributions are transferred.

9. Transferred amounts are counted in determining whether the owner has met the IRA's required minimum distribution rules. Where individuals have made nondeductible contributions to their traditional IRAs, a special rule treats transferred amounts as coming first from taxable funds, instead of proportionately from taxable and nontaxable funds, as would be the case with regular distributions. If non-deductible contributions are transferred to an eligible organization, a charitable contribution deduction may be allowed if itemizing deductions.
10. Individuals making a charitable contribution using IRA funds must obtain a contemporaneous written acknowledgement of the contribution to benefit from this new provision. See [IRS Publication 1771](#), Charitable Contributions—Substantiation and Disclosure Requirements contains information about substantiation of charitable contributions.

Additional information about qualified charitable distributions can be found in [IRS Publication 590-B](#), Distributions from Individual Retirement Arrangements (IRAs).

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## IMPORTANT TAX DEADLINE REMINDERS FOR ORGANIZATIONS ON A CALENDAR YEAR



If your nonprofit organization is on a calendar year, you likely have an important tax deadline nearing. For many charities, May 15 is an important tax deadline. That's the deadline for calendar year nonprofit annual returns, and missing it could be a serious problem for your charity.

### *California*

**Franchise Tax Board:** Every year California law requires a tax exempt organization to file either a Form 199 Exempt Organizational Information Return, or Form 199-N (California E-Postcard), depending on the organization's gross receipts. Private Foundations must file Form 199, regardless of gross receipts. Form 199 or 199-N must be filed with the Franchise Tax Board by the 15th day of the 5th month after the close of the organization's tax year. Accordingly, if your organization is on a calendar year, your Form 199 or 199-N is due by May 15th. An organization that cannot file by that date may take an additional seven months to file without submitting a written request for extension, as long as its status is in good standing.

**Attorney General's Office:** Every charitable corporation that is registered with the Attorney General's office is also required to file an Annual Registration Renewal Fee Report (Form RRF-1). Form RRF-1 must be filed four months and fifteen days after the close of the organization's calendar or fiscal year. If on a calendar year, your organization's Form RRF-1 must be filed by May 15th. Extensions of time for filing the RRF-1 will be allowed if an organization has received an extension from the IRS for filing the IRS Form 990, 990-PF, 990-N, or 990-EZ.

### *Federal*

**Internal Revenue Service:** Tax exempt organizations generally must file an annual information return, Form 990, 990-PF, 990-EZ, or 990-N, depending on the organization's gross revenue in the reporting year and the organization's total assets. Form 990, 990-PF, 990-EZ, or 990-N must be filed by the 15th day of the 5th month after the end of the organization's accounting period. Thus, for a calendar year organization, Form 990, 990-PF, 990-EZ, or 990-N is due May 15th of the following year. An organization may request an automatic extension of time to file a return by using IRS Form 8868.

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**FRANCHISE TAX BOARD -  
TAX NEWS!  
Is Your  
Organization Compliant?**



The Franchise Tax Board ("FTB") recently announced that it periodically reviews the activities of tax-

exempt organizations to determine if the organizations' current operations are in compliance with their tax-exempt purpose. In some cases, the FTB will send an Activity Check letter to the organization. Tax-exempt organizations are required to be organized and operated for nonprofit purposes within the provisions of the Revenue and Taxation Code (R&TC) under which the organization's tax-exempt status is approved. Inactive organizations are not entitled to exemption. When an organization receives the Activity Check letter from the FTB, the following information is requested:

1. A detailed narrative description of the activities presently carried on by the organization, including a description of any services performed.
2. A copy of the organization's financial statements for the last two years.

Based on the information provided, if the FTB determines the organization is active and operating, the FTB will notify the organization, and no further action is required. If an entity is no longer active and operating under its tax-exempt purpose, the organization is not entitled to tax-exempt status. Therefore, the organization's tax-exempt status may be revoked. Inactive incorporated or qualified organizations are then provided information on how to formally dissolve with the California Secretary of State.



For past issues of our Exempt Organizations Newsletter, please visit our [Exempt Organizations Practice Group](#) webpage.



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