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## Charitable Deduction Allowed for Distributions of IRA Through Trust

*But was it worth the cost of getting a the private letter ruling?*

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A decedent's estate and beneficiaries receive a new basis under Internal Revenue Code Section 1014(a) for most assets acquired from the decedent equal to the estate tax value. However, pursuant to IRC Section 1014(c), assets that are IRD don't. IRAs are a common type of IRD. As a result, ignoring any basis from nondeductible contributions, IRA beneficiaries are taxed on any IRA benefits that they receive.

## **PLR 202332011**

In PLR 202332011 (Aug. 11, 2023), an IRA owner left the IRA to a revocable trust. The residuary of the IRA was payable to charity. The IRS ruled that even though the IRA benefits were includible in the trust's income as IRD, the trust was entitled to a charitable deduction under IRC Section 642(c)(1) for the IRD included in the trust's income and distributed to charity.

An estate or trust may not take a distribution deduction for distributions to charity. Instead, an estate or trust may take a charitable deduction under Section 642(c)(1) for any amount of gross income paid for a charitable purpose pursuant to the terms of the governing instrument. The estate or trust may elect to treat the contribution as made in the prior year.

In addition, an estate may also take a charitable deduction under Section 642(c)(2) for any amount of gross income permanently set aside for charitable purposes.

## **Trap for the Unwary?**

Using IRA benefits to satisfy a pecuniary bequest to charity is a trap for the unwary. That was the case in CCM 200644020. In that case, the decedent left an IRA to a revocable trust. In the revocable trust, the decedent left cash bequests to several charities and the residuary to her children. The trustee distributed interests in the IRA to the charities in satisfaction of their bequests. The use of the IRA to satisfy the cash bequests resulted in income to the trust under *Kenan v. Commissioner*, 114 F.2d 217 (2d Cir. 1940). However, because the trustees weren't required to pay the charitable bequest out of gross income, the trust wasn't entitled to a charitable deduction.

By leaving the residuary to charity, the IRA owner in PLR 202332011 avoided this trap. However, by running the charitable bequest through the trust, either the trustees determined that they needed a PLR, or the IRA custodian insisted on a PLR. The Internal Revenue Service charges a user fee of \$38,000 (\$8,500 for taxpayers with income of \$250,000 or more but less than \$1 million, or \$3,000 for taxpayers with income under \$250,000). (Revenue Procedure 2023-1, Appendix A.)

In addition, the trustees incurred legal fees in connection with the ruling request.

The IRA owner could have achieved the same result without the need for a PLR by simply naming the charity or charities as the beneficiaries of the IRA on the beneficiary designation form.

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