IJ LIVE Call: Strategic Giving During COVID-19: New Charitable and Tax Considerations in 2020 Thursday, October 15, 2020 4:00–4:30 pm EDT

Introduction: Melanie Hildreth welcomes callers and introduces Rob Peccola. Melanie is IJ's Vice President for External Relations and director of the Institute's Four Pillars Society, which honors those supporters who have provided for IJ in their estate plans. Rob is an IJ attorney who spent the first part of his career as a probate litigator dealing with estate administration and fiduciary litigation.

Purpose of Call: To educate IJ supporters on aspects of 2020 legislation that could impact charitable and other financial planning.

Note: This call is only meant to provide information on new legislation and its potential impact. For tax advice or questions about your specific situation, you should meet with an advisor.

<u>CARES Act</u>

- The Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") is a $2 trillion spending bill that Congress passed in March as a response to the COVID-19 pandemic. It covers a wide array of provisions, from $500 billion for lending to businesses and local governments to suspending eviction proceedings in federally backed housing for 120 days. It also has provisions that implicate charitable giving.

100% Adjusted Gross Income (AGI) for 2020 Only

- For the 2020 tax year only, donors can deduct up to <u>100%</u> of their adjusted gross incomes for cash gifts made to public charities. Under the previous rule, they were only able to reduce taxable income by a maximum of 60%.
- To the extent a taxpayer's contributions in 2020 exceed 100% of their AGI, that excess can carry forward to the following year for up to five additional tax years—subject, however, to the percentage of AGI limit in those years. Unless Congress increases the percentage again in 2021, it will return to 60%.
- This new provision excludes giving to private foundations, along with contributions made to establish or maintain donor-advised funds.
- The CARES Act states that increased the deduction limit applies <u>only</u> to direct cash gifts to charity. The limit for gifts of appreciated long-term capital-gains property to public charities is still 30% of AGI. One way a donor could consider making the most of the provision is to contribute appreciated long-term capital gain property of 30% of AGI, then make a cash gift to public charities of the remaining 70% of AGI in order to receive a full 100% AGI deduction.

$300 Above-the-Line Deduction—A New Way to Lower Tax Liabilities

- Congress's new $300 above-the-line deduction states that taxpayers can deduct up to $300 ($600 for a married couple) for cash gifts to charity on top of the standard deduction.

- For those who don't itemize this year, this above-the-line deduction is welcome.

Individual Retirement Account (IRA) Distribution Changes

- The CARES Act changed Required Mandatory Distribution (RMD) regulations so that taxpayers now have a year off.
- The Act also instated a longer-term change by increasing the mandatory age required to make distributions to 72.
- That said, in 2020, starting at age 70½, donors can still direct a qualified charitable distribution (QCD) of up to $100,000 to public charities without realizing any income or paying any taxes on the money.
- Keeping income lower can have non-tax benefits as well, such as staving off higher premiums for Medicare Part B.
- NOTE: If you plan on making a distribution this year, do it as early as possible to ensure it will count as a 2020 gift. There is sometimes a several-week delay from the administrators in getting checks out, and it needs to be deposited by the charity by end-of-year to count for that calendar year.

SECURE Act

- Effective on January 1, 2020, the Setting Every Community Up for Retirement Enhancement Act ("SECURE" Act) addressed retirement assets and withdrawal rules.

IRA Beneficiary Considerations

- The SECURE Act has made inheriting an IRA less advantageous for non-spouse heirs as they are now required to take all the money out of an inherited IRA within 10 years. Previously, non-spouse heirs could take money out of an IRA across their entire life expectancy.
- When you take money out of an IRA, you must pay income taxes on the entirety of that money which means a higher and faster income tax bill. Charities, on the other hand, do not have to pay taxes on money donated from an IRA.
- Therefore, under the SECURE Act, it may be more advantageous to leave retirement assets to charity and leave non-IRA assets to family members.

Other Tax and Financial Planning Considerations to be Aware of

- As part of the CARES Act, the federal government is allowing people to withdraw up to $100,000 from their qualified retirement plans for financial hardships resulting from the coronavirus. If the taxpayers are under the age of 59½, then the typical 10% early distribution penalty (though not taxation) is waived for coronavirus-related distributions in 2020.
- Earlier this summer, President Trump issued an executive order, which took effect September 1, allowing workers who earn less than $104,000 to qualify for the payroll tax deferral through December 31. Workers need to repay the deferred taxes back by the end of April.

Challenge Grant Matching Support from New and Past Donors

- Two longtime IJ donors issued a $1 million challenge grant that matches dollar-for-dollar donations to IJ from new donors or from past supporters who haven't given in two or more years. This is another reason a gift to IJ now may make charitable dollars go further!

Information from call Q&A

Q: Diedre in Colorado:

What resources does IJ make available to attorneys who help clients with charitable plans?

A: (Rob):

We have a few different options.

1. The first is our planned giving website, which has a page for advisors. You can find that page by visiting ij.plannedgiving.org.
2. We also have a few different brochures and other materials that we can send along to supporters. These resources are really practical, with step-by-step instructions and sample language that includes things like our legal name and tax ID number. Those are a good option to have handy when folks are ready to discuss their plans.
3. I am also more than happy to answer any questions you or your attorney have.

Q: Linda in Florida:

Has IJ applied for any funds made available by the CARES Act to small businesses and nonprofit organizations?

A: (Melanie):

We did not. IJ's policy is not to solicit or accept government funding, and that is true this year too. We are able to continue to do our work thanks to the generosity of our individual and private foundation supporters.

Q: Phil in Maryland:

For the 2020 100% AGI deduction, could you still give contributions of 30% of appreciated property or any property, and make up the other 70% in cash? Also, if you give away 102% of your AGI this year, can you carry the 2% forward into 2021?

A: (Rob):

If you contribute appreciated long-term capital-gains property of 30% of AGI, you can still make a cash gift to public charities of 70% in 2020 and receive a full 100% AGI deduction. As to the second question, to the extent a taxpayer's contributions in 2020 exceed 100% of their AGI, that excess will carry forward to the following year for up to five additional tax years—subject, however, to the percentage of AGI limit in those years that Congress decides on. Last year it was 60%, and depending on what new COVID legislation we see, it could change again in 2021.

Q: Arthur in Pennsylvania:

Like many people after the big tax reform. I started giving from the IRA rather than from regular income. I found that some organizations have a separate kind of acknowledgement letter that recognizes that it's from the IRA.

In addition, like many people, with the IRA holiday that you mentioned, it's going to be very tempting to bundle contributions or double contribution in 2021. I suspect that that's what I ended up doing and that many other people were doing. So I just wondered if you have any thoughts on that.

A: (Melanie):

Regarding the IRA acknowledgement, we do try to recognize in our acknowledgement letters that this was a gift made directly from an IRA at Fidelity (or from whatever organization held the funds). It's not always clear, however, from the checks that come to us. Sometimes they send a cover letter that indicates it was a qualified charitable distribution, but often they do not. If you want to be sure that we know it was an IRA gift, please just send us a note to let us know that that is the kind of gift that you're going to make, and we'll be sure that it is also reflected in the letter that we send to you.

A: (Rob):

We are more than happy to have a very good January when folks have their RMDs kicking back in. And if, sir, you do elect to do that and wait until that kicks in, in January, that's more than fine with us. We're just grateful for the support.

Q: Ed in New York:

I have two questions. The first has to do with the 10-year IRA limit. Now, I presume that the value of the IRA will vary from year to year. I presume it's just a good faith every year that you have to take out 10% of what's there until the fund is exhausted?

My second question is: this year because of the odd financial situation that many of us had, my income is down, but my charitable contributions are up. So we're assuming that my charitable contributions wiped out my income, but I still itemize the rest, my business deductions, healthcare, things like that, I can still carry those forward into 2021, can't I?

A: (Rob):

<u>First Question</u>: The heir who inherits the IRA account would have to take her distributions sometime in the 10-year period. This could be at regular intervals, at the end of the period, or whenever she wishes. She will pay taxes on the entire distribution as she takes it.

<u>Second Question</u>: We can't give much insight into business or healthcare deductions. You can deduct a total of $10,000 in state and local taxes each year, and we are not aware

of a way to carry over non-deductible amounts to future years. This is a tricky area where you will definitely want to consult an advisor.

Q: Joseph in Colorado:

We are making several kinds of gifts and wondered about what combination could get us to 100% AGI deductibility—for example, 30% appreciated stock, 30% of donor-advised, and the remaining 40% in cash.

A: (Rob):

This combination should work.