



Private Letter Rulings and Planned Giving: Yes, You Need to Know This

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What Is a Private Letter Ruling?

[The Internal Revenue Service defines](#) a private letter ruling, or PLR, as a statement issued to a taxpayer that interprets and applies tax laws to the taxpayer's specific set of facts. A PLR is issued to establish with certainty the federal tax consequences of the applicant's tax question, and the findings are binding on the IRS. The resolution of the tax question in the requested PLR may not be relied on by other taxpayers. The PLRs are generally made public after the taxpayer's identifying information has been removed from the document.

The Key Features of a PLR:

- **Specificity:** PLRs address only the taxpayer's unique facts and circumstances and cannot be used as precedent by others.
- **Purpose:** PLRs aim to clarify tax treatments, reduce uncertainty, and confirm whether an action will comply with tax laws.
- **Process:** Taxpayers must submit a detailed request, including all relevant facts and legal questions. The IRS may charge significant fees for this service.
- **Binding Nature:** PLRs bind the IRS and the requesting taxpayer but are not binding on other taxpayers or future cases unless redacted and issued as a revenue ruling.

How Much Does a Private Letter Ruling Cost?

The cost of a PLR for personal tax issues ranges from \$3,000 to \$43,700, depending on the tax issue and the taxpayer's income.¹ Additional costs may include professional fees for legal or tax advisory services. The taxpayer should keep in mind the costs and time involved when considering requesting a PLR.

When Should You Apply for a Private Letter Ruling?

The IRS issues PLRs in response to the requests of taxpayers with specific and highly unusual circumstances where the proper tax treatment is unclear, such as determining whether a specific transaction would result in a tax penalty or violation. The taxpayers applying for a PLR are usually large corporations or organizations with highly complex filings, because the legal and filing fees for PLRs are high.

The IRS can redact the personal content of a private letter ruling and issue it as a revenue ruling, which becomes binding on all taxpayers. The IRS can also modify or revoke a previously issued private letter ruling if it is later determined that the ruling was incorrect or inconsistent with the current position of the IRS. Therefore, even with a favorable ruling, a taxpayer has no absolute guarantee of the tax consequences.

What Does Any of This Have to Do with Planned Giving?

PLRs are important to planned giving to understand innovative gift planning opportunities. Although the PLRs are not binding on other taxpayers, donors and their advisors have a better understanding of how the IRS would rule when presented with a case with the same facts. While other donors may not rely on private letter rulings, certain unique planned giving options are now more common based on the PLR outcomes.

Flexible and Step Gift Annuities

Deferred gift annuities appeal to those in their working years. Many of these people are already contributing the maximum amount allowable to their qualified retirement plans, and they would like to accumulate still more to assure a high quality of life in their later years. They are also likely to be in the top income tax brackets now, and they would welcome the opportunity to reduce their taxes.

The challenge with a regular deferred annuity is that the donor, at the time of the gift, must choose a date certain in the future to begin receiving payments. The donor is

¹ IRS Revenue Procedure 2025-1, Appendix A (<https://www.irs.gov/pub/irs-irbs/irb25-01.pdf>).

forced to choose a start date that may be after or before they need the annuity payments. Gift planners wondered if it would be permissible to allow the donor to select a range of dates over which they might elect payments.

As a result of Private Letter Ruling 9743054, the deferred gift annuity became more appealing when the IRS ruled it was permissible for the annuitant to elect when to start the annuity payments after they reached a certain age. The older the annuitant when payments begin, the larger the payments.

Reinsured Charitable Gift Annuities (CGAs)

When a charity invests assets contributed to a gift annuity and makes annuity payments from those invested assets, the annuity is said to be *self-insured*. Some charities choose *reinsurance* and purchase an annuity contract from a life insurance company that makes payments equal to the amount agreed upon in the gift annuity agreement.

There was an open question as to the calculation of the charitable deduction and the taxation of the annuity payments from a CGA. Private Letter Ruling 200852037 found that if the donor creates the annuity and the charity subsequently reinsures the contract, the charitable deduction and taxation of payments will be treated consistent with deductions and taxation of other gift annuities.

Commuted Payment Gift Annuities (College Annuities)

A commuted gift annuity is a deferred gift annuity where life payments are commuted (exchanged) either for a lump sum or for payments for a certain number of years. The IRS has approved gift annuity agreements that permit such exchanges. See Private Letter Rulings 9042043, 9108021, 9527033, and 200233023.

In most instances, the commuted gift annuity has been used to provide educational expenses for a student attending a college or university, which is why it is often called “the college annuity.” The key to how the IRS views these commuted, or college annuities, is that the deduction (the actuarial value) of the lump sum or installments over a certain term must be the same as the deduction (the actuarial value) of lifetime payments.

Exactly how does that work? The commuted payment gift annuity can be calculated as a deferred gift annuity showing the value of payments over a term of years or a lump sum that would be equivalent to a regular deferred gift annuity for life. Assuming the same dates of gift, ages, discount rate, and other variables, the regular deferred deduction and the commuted payment deduction will match.

Testamentary Charitable Remainder Trusts (CRTs) funded with IRAs

At the death of a traditional IRA owner, the entire IRA will be taxable on the plan owner's final tax return if the estate is named as the beneficiary. Even if IRA proceeds are paid to heirs at the plan owner's death, the heirs must empty the inherited IRA within 10 years of the plan owner's death and pay tax on the distributions.

For these reasons, gifts of IRAs to charity at death are a great tax savings plan because no tax is due at the donor's death. But what if the donor wants to provide for heirs over their lifetime and preserve the principal for charity? A creative way to save taxes and make lifetime payments to heirs is to fund a charitable remainder trust (CRT) with the proceeds of a testamentary IRA distribution.

But what of the tax consequences of an IRA contributed to a testamentary charitable remainder trust? Private Letter Ruling 9253038 held that the trust would not be subject to income tax. Private Letter Ruling 9253038 concluded, on similar facts, that the amount transferred to the CRT qualified for an estate tax deduction. Therefore, the plan distribution would not be reported on the donor's final income tax return. Finally, in both PLRs, the IRS ruled that the distributions from the IRA to the CRT would be ordinary income when paid to the CRT beneficiaries.

Will You Need a PLR?

Most taxpayers will not be in a position to require a PLR to resolve a tax issue. It is important to weigh the cost of the PLR process against the chance of a favorable result. Even though PLRs are applicable only to the specific situation for the requesting taxpayer, the PLRs provide insight into the IRS's interpretation of similar tax scenarios.