

April 22, 2025

VIA FIRST CLASS AND ELECTRONIC MAIL

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IRS Tax Products Coordinating Committee
SE:W:CAR:MP:T:T:SP
1111 Constitution Avenue, NW
Washington, DC 20224

Re: New Distribution Code “Y” on Form 1099-R for Qualified Charitable Distributions

Dear Sir or Madam:

On behalf of the Committee of Annuity Insurers (CAI) and the American Council of Life Insurers (ACLI),¹ we are writing to comment on the recent addition of distribution code “Y” to the 2025 Form 1099-R. Issuers of individual retirement accounts and annuities (IRAs) would be required to use this new code on Form 1099-R to indicate whether distributions from IRAs in 2025 and subsequent years are qualified charitable distributions (QCDs).² As discussed below, we believe the new distribution code is unnecessary because it would not provide information with respect to QCDs that is not already available to the IRS and taxpayers. Accordingly, we respectfully ask the IRS to eliminate the new distribution code. If the IRS retains the code, we respectfully ask for guidance (1) clarifying that IRA issuers can rely on taxpayer representations when using the new code, and (2) delaying the required use of the code so that IRA issuers can have adequate time to modify their systems, forms, and procedures.

New Distribution Code “Y” Should be Eliminated

CAI and ACLI member companies are among the largest issuers of individual retirement annuities in the country. As a result, they have substantial federal income tax reporting and withholding obligations with respect to IRAs. They satisfy those obligations using a combination of forms, procedures, and electronic systems. Modifying those elements of compliance, even for a seemingly simple change such as a new distribution code on Form 1099-R, can entail significant time, effort, and cost. Accordingly, the IRS should modify Form 1099-R only if the changes will significantly improve tax administration. The addition of code Y will not accomplish this, so the IRS should reverse its decision to add it.

¹ CAI is a coalition of life insurance companies formed in 1981 to participate in the development of federal policy with respect to annuities. CAI’s current 33 member companies represent approximately 80% of the annuity business in the U.S. ACLI is the leading trade association driving public policy and advocacy on behalf of the life insurance industry. ACLI’s current 280 member companies represent 94% of industry assets in the U.S.

² QCDs are defined in section 408(d)(8). Unless otherwise indicated herein, “section” means a section of the Internal Revenue Code of 1986, as amended.

Individual taxpayers and the IRS already possess all the information they need to administer the QCD rules. An individual who wishes to exclude a QCD from their gross income must first identify a charity or split-interest entity for which the exclusion applies. Then they must direct the IRA issuer to send the distribution from the IRA directly to the charity or split-interest entity,³ separately substantiate the QCD by obtaining a written statement from the charity or split-interest entity showing its name and the date and amount of the donation,⁴ and claim the exclusion on their own tax return.⁵ Taken together, these existing requirements with respect to making, claiming, and substantiating QCDs are perfectly adequate to ensure proper tax administration.

We further note that a Form 1099-R would not help an individual satisfy the applicable substantiation requirements even if it included a code Y. For example, it would not show the name of the charity or split-interest entity, nor the date of the donation. Thus, if the purpose of code Y is to further substantiate a QCD, such as by showing that a payment was made from their IRA “directly” to a charity, the code would not accomplish this goal. It would merely show that the IRA issuer sent the payment to an entity at the owner’s direction. The owner would still need to obtain separate documentation from the charity or split-interest entity showing the name of the recipient and the date of the payment.

This demonstrates that neither the individual nor the IRS needs a code Y on a Form 1099-R to know (or prove) that the individual made a QCD. If the IRS believes it needs more information about QCDs, such as to confirm that the payment was made directly from the IRA to the charity or split-interest entity, the better way to get that information would be to require the charity or split-interest entity to include the desired information in the written statement it is already required to provide to the donor. That, combined with a Form 1099-R reporting a normal distribution from the IRA, would give the IRS more than enough information to enforce these rules.

Moreover, a code Y on Form 1099-R would be largely meaningless and could lead to misreporting of IRA distributions as QCDs. This is because IRA issuers necessarily will need to rely solely on information they receive from their customers when determining whether to use code Y. In that regard, IRA issuers lack knowledge of several factual items that are critical to determining whether a distribution is a QCD. For example:

- QCDs are subject to certain limits that apply based on all IRAs that the individual owns.⁶ If an individual takes a QCD from one IRA, it could affect whether a distribution from

³ See section 408(d)(8)(B)(i) (defining a QCD, in relevant part, as a distribution made “directly” by the IRA issuer to a permitted charity or split-interest entity).

⁴ See, e.g., section 408(d)(8)(C); section 408(d)(8)(F)(iii); section 170(f)(8); Notice 2007-7, sec. IX, Q&A-39, 2007-5 I.R.B. 395; Publication 526, *Charitable Contributions*, at 19-20 (Feb. 26, 2025). In describing the substantiation requirements for QCDs, the IRS website also says “[d]onors must obtain a written acknowledgement from the charity showing the contribution date, amount and confirmation that no goods or services were received.” See <https://www.irs.gov/newsroom/give-more-tax-free-eligible-ira-owners-can-donate-up-to-105000-to-charity-in-2024> (last accessed April 22, 2025).

⁵ See Instructions to Form 1040 (2024), at p.27 (Dec. 16, 2024).

⁶ See section 408(d)(8)(A) and (F).

another IRA can be a QCD. IRA issuers have no knowledge about IRAs their customers may have with other providers.

- The QCD dollar limits may be reduced if the individual claims a deduction for their IRA contributions after age 70½.⁷ IRA issuers have no knowledge of whether their customers claim deductions for IRA contributions on their personal income tax returns.
- QCDs do not include any portion of a distribution that otherwise would not be taxable.⁸ IRA issuers have no knowledge of what portion (if any) of distributions to their customers are taxable and therefore are not required to make such determinations.⁹
- A distribution is not a QCD to the extent that the taxpayer received any goods or services from the charity or split-interest entity in exchange for the payment. IRA issuers have no way of knowing whether any distribution involves this type of *quid pro quo*.
- QCDs must be paid directly from an IRA to certain types of charities or split-interest entities. IRA issuers cannot reasonably be expected to know whether a particular entity qualifies as a permitted QCD recipient, particularly in the case of a split-interest entity that is not a well-known public charity.

Based on the foregoing, if IRA issuers are required to use code Y on Form 1099-R to report distributions as QCDs, they necessarily will need to rely on representations from their customers that the distributions are QCDs. The IRS has already published guidance acknowledging this need for IRA issuer reliance on customer representations for QCDs in the context of income tax withholding, and the latest draft instructions to Form 1099-R suggest that such reliance is contemplated for reporting purposes as well.¹⁰

These references to reliance on customer representations appropriately reflect the fact that only the individual will know whether a distribution from their IRA satisfies the QCD requirements. If only the individual knows this, and they are already required to claim any exclusion for a QCD on their own tax return and to separately obtain and maintain records to substantiate that claim (apart from any Form 1099-R), we find it difficult to see how requiring the IRA issuer to include a code Y on Form 1099-R will provide the individual or IRS with any

⁷ See section 408(d)(8)(A).

⁸ See section 408(d)(8)(B) (flush language).

⁹ See, e.g., 2024 Instructions for Forms 1099-R and 5498, at p.12 (Aug. 21, 2024).

¹⁰ See Notice 2007-7, sec. IX, Q&A-40, 2007-5 I.R.B. 395 (stating that QCDs are not subject to withholding under section 3405 and that “[f]or purposes of determining whether a distribution requested by [sic] an IRA satisfies the requirements under § 408(d)(8), the IRA trustee, custodian, or issuer may rely upon reasonable representations made by the IRA owner.”). See also 2025 Instructions for Forms 1099-R and 5498, at p.18 (draft dated April 15, 2025) (proposing to instruct IRA issuers to “[u]se Code Y for a distribution made directly from an IRA to a charitable organization and that the taxpayer *intends* to be a QCD.”) (emphasis added). The reference to a distribution that the taxpayer “intends” to be a QCD is further implicit acknowledgment that the IRA issuer will not know whether a distribution actually is a QCD or not, and that instead all an IRA issuer can do is rely on the individual taxpayer representing to the issuer that the distribution is intended to be a QCD.

additional information that they need, yet do not already possess, in order to properly administer the QCD rules. Indeed, a code Y on Form 1099-R could easily mischaracterize a distribution as a QCD – at no fault of the IRA issuer. In these circumstances, the IRS should reverse its decision to require the code’s use.

Confirm that IRA Issuers Can Rely on Representations if Code “Y” is Retained

If the IRS retains the requirement to use code Y on Form 1099-R, we respectfully request official confirmation that IRA issuers can rely on taxpayer representations when using the code on Form 1099-R. For the reasons discussed above, IRA issuers will have no way to independently confirm whether a distribution is a QCD; only the individual taxpayer will have all the necessary information. As noted above, the IRS has already acknowledged that IRA issuers may “rely upon reasonable representations made by the IRA owner” in the context of income tax withholding for QCDs, and the latest draft of the 2025 instructions to Form 1099-R similarly suggests that such reliance is permitted for reporting purposes.¹¹

That prior guidance should be expanded to expressly apply to information reporting. It also should clarify that IRA issuers are not required to independently confirm that the dollar amount of a distribution satisfies applicable limits or that the recipient of a purported QCD is a qualified charity or split-interest entity. The guidance also should be clear that if an IRA issuer does not timely receive the necessary representations from the individual taxpayer, the issuer is not required to reflect a code Y on a Form 1099-R even if the distribution is made to a charity or split-interest entity.

Delay the Effective Date if Distribution Code “Y” is Retained

If the IRS decides to retain the requirement to use code Y on Form 1099-R, we also request an extension of the deadline for when IRA issuers must begin using the code. Prior to (or in lieu of) requiring its use, the IRS could make the code optional for IRA issuers.

As discussed above, even a minor change to Form 1099-R can require substantial work to implement, including revisions to forms, procedures, and electronic systems. The IRS introduced the new code to the 2025 Form 1099-R in March of 2025 and seems to expect IRA issuers to begin using it in January 2026 when reporting distributions from IRAs that occur any time in 2025, even for distributions that occurred before the code was first announced in March. IRA issuers should not be expected to have the capability or capacity to retroactively review distributions that occurred prior to the new form’s release to determine if they were QCDs and obtain any necessary customer representations of such treatment after-the-fact, all in time to reflect a code Y on a Form 1099-R filed in January 2026. IRA issuers need a reasonable amount of time to implement this new requirement.

Accordingly, we request guidance confirming that IRA issuers will not be required to use code Y before the first calendar year that begins at least six months from the date the instructions

¹¹ *Id.*

to Form 1099-R reflecting the use of code Y are published in final form.¹² Thus, if the instructions are published before July 1, 2025, then code Y would be required to be used ***beginning with distributions occurring in 2026 that are reported on Form 1099-Rs filed in January 2027.*** Such an extension of the effective date of this new requirement is warranted by the facts that no special reporting of QCDs has ever been required before, there was no prior warning or announcement that the code would be forthcoming, additional guidance is needed before IRA issuers can reasonably be expected to implement the new form, and IRA issuers need time to update their forms, procedures, and electronic systems to reflect the new code.

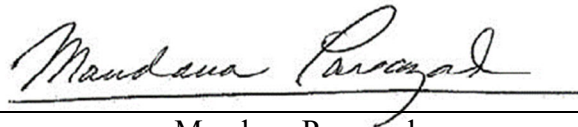
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We appreciate your consideration of our request. If you have any questions or if we can be of any assistance as you consider our points above, please contact either of the undersigned.

Sincerely,



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¹² We note that, as of the date of this letter, only a draft version of the 2025 Instructions for Forms 1099-R and 5498 has been published. See <https://www.irs.gov/pub/irs-dft/i1099r--dft.pdf> (dated April 15, 2025, website last accessed on April 22, 2025).