MARKS PANETH

ACCOUNTANTS & ADVISORS

MINIMUM DISTRIBUTION REQUIREMENTS FOR PRIVATE FOUNDATIONS

Robert Lyons

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MINUMUM DISTRIBUTION REQUIREMENTS FOR PRIVATE FOUNDATIONS

Every year, private, non-operating foundations are faced with determining their minimum investment return in order to calculate their distributable amount. For calendar year 2014, the distributable amount is the amount that the foundation must pay out as a qualifying distribution by the end of 2015 to avoid the 30% excise tax on the undistributed portion. In a given year, distributions for charitable purpose are counted toward a prior-year minimum distribution deficiency before they can be applied to a current-year. The minimum investment return is calculated in Part X of Form 990-PF, while the distributable amount is calculated in Part XI.

The timing of the payout requires some planning, especially in a fluctuating market. An organization's minimum investment return, as determined in Part X, is 5% of the total fair market value (less acquisition indebtedness) of its non-charitable use assets. Minimum investment returns are calculated based on market values for a given year. In a declining market, the value can be determined with higher yields and values at the end of a year and ultimately be paid out with more expensive dollars in a declining market during the 12-month period following the close of the tax year.

Managers of private foundations often confuse the discussion of distributable amount and minimum investment return with the issue of 1% versus 2% excise tax. These are two entirely separate issues. The 1%/2% calculation is based on a five-year average and is calculated in Part V.

Foundation administrators should review distributions before the end of the year to avoid excise taxes for failing to meet the required distributable amount.