Proskauer

Wealth Management Update

April 2025

April 2025 AFRs and 7520 Rate

The April 2025 Section 7520 rate for use with estate planning techniques such as CRTs, CLTs, QPRTs and GRATs is 5.00%, which is 0.40% less than the March 2025 rate. The April applicable federal rate ("AFR") for use with a sale to a defective grantor trust or intra-family loan with a note having a duration of:

- 3 years or less (the short-term rate, compounded annually) is 4.16%, down from 4.31% in March;
- 3 to 9 years (the mid-term rate, compounded annually) is 4.21%, down from 4.46% in March; and
- 9 years or more (the long-term rate, compounded annually) is 4.61%, down from 4.82% in March.

J.M. v. G.V., 225 N.Y.S.3d 859 (N.Y. Sup. Ct. 2025): Maintenance Calculations May Need To Be Included in New York Prenuptial Agreements

Husband and Wife married in New York in 2018. One week prior to their wedding, they entered into a prenuptial agreement. Wife was the monied spouse and Husband was unrepresented. After Wife commenced an action for divorce, Husband moved for summary judgment to, inter alia, set aside the prenuptial agreement on the basis that the prenuptial agreement failed to disclose the maintenance amount he would have been entitled to in accordance with the post-divorce maintenance guidelines contained in New York Domestic Relation Law 236.

Wife argued that prenuptial agreements should only be guided under the construction of contracts and are not bound by the maintenance guidelines statute. The court disagreed. It held that it would be antithetical to the protections of the maintenance guidelines statute to hold that the requirement for a knowing waiver for self-represented litigants does not apply to prenuptial agreements.

The court further determined that in order for there to be a knowing waiver of maintenance by a self-represented litigant in the context of the prenuptial agreement, “the presumptive maintenance calculations” must be set forth in the agreement as the statute expressly provides that the calculation must be fully articulated where there is a self-represented party.

To satisfy the knowing waiver aspect of the maintenance guidelines statute, both parties must provide their incomes and the full calculation, as of the time they enter into the prenuptial agreement, where either or both parties are self-represented because without the inclusion of incomes as of the date of the agreement and the full calculation under the guidelines statute formula, there could be no knowing waiver because the guidelines sum of maintenance would not be explicitly known and, as such, the parties could not expressly waive it.

Key Questions to Answer in Determining How IRS Disaster Relief Will Affect a Given Taxpayer or Deadline

1. **Is the taxpayer an affected taxpayer eligible for relief?**

Treas. Reg. § 301.7508A-1(d)(1) covers the definition of an “Affected Taxpayer” (only Affected Taxpayers are eligible for relief) and such person is generally an individual, spouse, or business that is located in a covered disaster area or if the records of such individual, spouse, or business has records that are maintained in a covered disaster area. An estate or trust is an affected taxpayer if it has tax records necessary to meet a deadline (that is eligible to be postponed under the disaster relief) that are maintained in a covered disaster area.

2. **What does the disaster relief provide?**

Following a federally declared disaster, the IRS will issue an announcement regarding the date to which deadlines for actions falling during a period may be postponed for Affected Taxpayers, and such length of postponement will depend on the disaster.

3. **Does the postponement of filing also postpone tax payments and estimated tax payments?**

Yes, payments as well as filings are acts that may be postponed by Affected Taxpayers as detailed in Treas. Reg. § 301.7508A-1(c)(1)(i)-(ii), and as demonstrated by the examples in Treas. Reg. § 301.7508A-1(f).

4. **Does the disaster relief extend future tax deadlines that are based upon deadlines that are postponed by the disaster relief?**

No, per Treas. Reg. § 301.7508A-1(b)(3)-(4), the disaster relief does not move deadlines that rely on the timing of other deadlines that were postponed due to the disaster relief, it simply does not penalize Affected Taxpayers for missing deadlines that would otherwise occur during the disaster relief period. For example, if the original due date for a Form 706 estate tax return fell during the relief period, the Form 4768 automatic extension could be delayed to the end of the relief period, but the final Form 706 would still be due 6 months from when the original 9 month post date of death period, not 6 months from the end of the disaster relief period.

PLR 202506004: Mixed Charitable and Non-Charitable Application of Retirement Accounts Provides Opportunities and Pitfalls with New PLR Reasoning

In PLR 202506004, decedent left multiple retirement accounts, along with other assets, to a trust. The trust directed that upon decedent’s death, the trust property would be distributed to charities selected by the trustees, and to specified individuals, in specified percentages. The trustees formed a 501(c)(3) foundation to administer the charitable bequests. The trustees proposed to fund the charity’s share with a lump sum distribution from the retirement accounts paid to the trust, which would then immediately send the distributed funds along to the charity; and to fund the individuals’ shares with a combination of non-retirement account assets plus retirement accounts. The retirement account shares for the individual beneficiaries would be transferred directly from the inherited accounts held by the trust into inherited IRAs in the beneficiaries’ names.

The trustees sought a ruling that the cash distribution to charity from the retirement accounts proceeds would qualify for the fiduciary charitable deduction, thereby eliminating any income tax on the lump sum distribution. The IRS ruled that, "[p]rovided that Trust pays the entire lump sum distribution to Foundation within the same taxable year received, Trust is entitled to a deduction under § 642(c)(1) equal to the amount of IRD included in Trust's gross income as a result of the distribution of the Retirement Accounts." In support of this conclusion, the IRS cited § 642(c) ("Deduction for amounts paid or permanently set aside for a charitable purpose").

Following the distribution to charity in deductible fashion from the decedent's retirement accounts, the trustees wanted to dispose of the retirement accounts not already distributed by the charitable gift by means of direct plan-to-plan transfers from the decedent's accounts into inherited IRAs for the individual beneficiaries. The IRS ruled that the transfers from decedent's retirement accounts to the beneficiaries' inherited IRAs would qualify as nontaxable under both § 408 and under "§ 402(c)(11)"— meaning, both the decedent's IRAs and her 401(k) plan accounts could be passed out to the individual beneficiaries via direct transfers from decedent's accounts held by the trust as her beneficiary into inherited IRAs in the names of the individuals as beneficiaries of the decedent, despite the trust at issue not qualifying as a designated beneficiary.

Therefore, the ruling (1) allowed the trust an income tax charitable deduction under § 642 for the donation to charity and (2) allowed the transfer of the rest of the retirement accounts directly into inherited IRAs for the individual beneficiaries as a tax-free transfer.

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