

March 13, 2013

IRS Rules on Account-Opening Bonuses in IRAs and 529 Plans

The Internal Revenue Service (the Service) recently released [PLR 201310043](#) (December 11, 2012), which addresses account-opening bonuses credited to an individual retirement account (IRA) or section 529 college tuition savings plan. A financial services firm – which offered and credited the bonuses to the accounts of new customers meeting specified requirements – inquired whether it had a tax reporting obligation with respect to the bonuses.

- The Service’s limited prior guidance regarding this common industry practice includes a pair of 1987 private letter rulings (PLR 8722068 (March 3, 1987) and PLR 8732004 (April 27, 2007)), [Rev. Proc. 2000-30](#), [IRS Publication 17](#) and [IRS Publication 550](#).
- For IRAs, the Service conceptualized the bonus as interest or other earnings (e.g., a dividend) paid on the IRA, and ruled that the firm had no reporting obligation either under Internal Revenue Code [§ 6041](#) pursuant to a statutory exception for such payments ([§ 6049\(b\)\(2\),\(4\)](#)) or “any other information reporting requirements of the Code.” Although not explicitly addressed, the implication of this ruling is that the bonus (i) is not taxable to the IRA owner until distributed and (ii) does not count against the IRA annual contribution limit.
- The Service, however, distinguished 529 plans on the basis that the pertinent State rather than the financial services firm establishes, maintains and holds the assets under a 529 plan. The Service therefore conceived the bonus for tax purposes as (i) a third-party payment of income by the financial services firm to the account owner and (ii) a contribution by the account owner to the 529 plan, arguing that this view was consistent with the position it took in [Announcement 2008-17](#) on payments to 529 plans “not in the nature of gifts.” In these circumstances, the Service concluded that the financial services firm did have a reporting obligation under [§ 6041](#) to the extent reportable payments (including the bonus) totaled \$600 or more.

Sutherland represented the taxpayer in requesting this ruling.



If you have any questions about this development, please feel free to contact any of the attorneys listed below or the Sutherland attorney with whom you regularly work.

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