

## **IMPORTANT TAX INFORMATION**

### **IRS Benefit Prohibition for IRA Gifts, Donor Advised Funds and Private Foundations**

Colonial Williamsburg recently was made aware of IRS rules prohibiting donors from receiving substantial benefits from the Foundation if they make a membership contribution through any of the following three giving methods:

- IRA rollover gifts, also known as IRA qualified charitable distributions (QCD)
- Grants from donor advised funds
- Grants from a private foundation such as a family foundation.

Because donors initially receive a 100% tax deduction with all three of these arrangements, IRS rules prohibit you from receiving any non-deductible benefits now. Otherwise, significant tax penalties result. Therefore, if you would like to attend donor society meetings, you will need to make a personal contribution this year covering society membership.

We have included a list of frequently asked questions on the reverse side. As always, we encourage you to consult your tax advisors. If you have additional questions, please contact our Senior Philanthropic Advisor, Ken Wolfe. His direct number and email address are listed below. Thank you for your annual support of the Foundation's mission. Your support truly makes a difference.

Please address inquiries to:  
1-888-293-1776  
donorsocieties@cwf.org

## **Frequently Asked Questions**

### **What is the IRS penalty for receiving benefits from an IRA QCD gift?**

If donors receive substantial benefits as a result of the QCD (such as the right to attend the annual donor society meeting, Colonial Williamsburg admission tickets, etc.), then the entire IRA rollover will not qualify for tax-free treatment. Instead, 100% of the QCD amount will be included in your taxable income. If you itemize, the entire amount of the QCD will be eligible for a charitable deduction—minus the value of any benefits received.

### **What is the IRS penalty for receiving benefits from a donor advised fund grant?**

Receiving benefits of this type will result in two penalties: 1) 125% excise tax on the grant payment amount, payable by the donor/advisor or benefit recipient and 2) 10% excise tax (up to \$10,000) payable by the donor advised fund manager, if aware of the benefits received.

### **What is the IRS penalty for receiving benefits from a private foundation grant?**

Receiving benefits of this type is considered an act of “self-dealing” under the private foundation rules, resulting in three penalties: 1) 10% initial excise tax on the grant payment amount, 2) the private foundation must correct the transaction—either have the charity refund the grant or have the private foundation donor make a non-deductible gift in the amount of the grant plus interest, and 3) if the payment is not corrected, an additional 200% penalty will be assessed.

### **Can tax penalties be avoided simply by writing a personal check in the amount of the non-deductible benefits?**

No. The IRS considers a non-deductible personal gift in the amount of the benefits received to be impermissible “bifurcation.” This does not avoid tax penalties.

### **Can I write a personal check covering base society membership and use the IRA QCD/donor advised fund /private foundation above that amount?**

Yes, because the additional contribution above base donor society membership only results in incidental recognition benefits. For example, a donor could write a \$5,000 personal check covering base Raleigh Tavern Society membership and all associated non-deductible benefits, and a \$15,000 IRA QCD gift to become an Innkeeper (which confers recognition benefit only).

### **What if I don't plan on attending the annual donor society meeting?**

The IRS position is that the right to receive benefits makes the value of those benefits non-deductible. Therefore, donors should decline all benefits in writing in order to make their contribution 100% deductible for tax purposes.