

Minutes of Meeting of IRA Employee Benefit and Insurance Committee
November 14, 2014
Naples Grande Resort
Naples, Florida

The meeting was called order at 11:40 AM.

Present at the meeting were Howard Payne, Steve Kotler, Guy Emerich, Marjorie Wolesky, Brian Sparks, Jeff Goethe, Rich Amari, Charlie Nash, Rick Gans, Cristin Keen, Stephen Heuston, Sandra Sheets, Kit VanPelt, Linda Griffin, David Akins, Kristen Lynch, Tasha Dickinson, Mark Middlebrook, Kenneth Pratt, Mike Stafford, Marilyn Polson, Maggie McMorrow, Sydney Smith, Rex Moule, Alex Hamrick, David Lanigan, Russell Hale, Jeremy Leathe, Dresden Brunner, Keith Kromash, Richard White, David Sterling, and Randy Ellington.

Carlos Rodriguez first discussed some recent IRA and Employee Benefit rulings and cases. He reported there were two cases pending in the Eighth Circuit and Tenth Circuit regarding the misuse of self-directed IRA funds both of which look like taxpayer losses. He emphasized that you must be very careful as to how you apply the funds taken from an IRA for an investment purpose pointing out that if the investment pays the IRA owner as salary, this may be considered an unlawful transaction. He also reported that the IRS is going to create a prototype 401(k) plan. He reported on a Private Letter Ruling that the date of a letter directing the move of cash from one bank account to an IRA account within the same bank is the date on which the contribution will be considered to have been made even though the actual cash transfer may have occurred on a different date. He emphasized filing Form 5329 any time a client makes a contribution to an IRA where the value of the contribution may be questionable. He reported on a Tax Court decision in Barner where the court ruled that because the federal retirement plan did not permit rollovers from IRAs, federal employee's attempt to augment his federal retirement plan by rolling funds from an IRA did not work. He also reported on a recent private letter ruling involving the attempt by a trustee to pay some pecuniary charitable devises with IRA funds. The IRA beneficiary was the trust. The Private Letter Ruling stated that the distribution of IRA funds to the charities would be considered transfers of income in respect of a decedent under §691(a)(2) so the trust had to report the income. Furthermore the ruling stated that because the trust did not permit the use of income to fund the devises, the trust could not take a charitable deduction under § 642(c)(1).

The balance of the meeting was a discussion led by Randy Ellington of the various types of life insurance policies that were available and his recommendations regarding when certain policies should be used as opposed to others.

The meeting was adjourned at 1:00 pm.

Respectfully submitted,
L Howard Payne