

ATTORNEYS CARL HOLBORN AND BRITANY MORRISON PUBLISHED IN THOMSON REUTERS JOURNAL

Attorneys Carl D. Holborn and Britany E. Morrison were recently published in the *Taxation of Exempts*, a Thomson Reuters journal.

There is a big unresolved public policy issue in the philanthropic world—private foundations and their use of donor-advised funds (DAF). Specifically, the issue is whether distributions made by private foundations to donor-advised funds should be treated as “qualifying distributions” for purposes of the 5% annual payout rule.

While the issue was sparsely debated before, the IRS really stirred the debate in the charitable world with the issuance of Notice 2017-73. The Notice specifically requests comments on whether a contribution to a DAF by a private foundation should be considered a distribution that counts as a “qualifying distribution” for the purposes of the annual 5% payout rule. [1] Comments in response to the Notice poured in and opinions were deeply divided between those in favor of reform to disallow or limit “qualifying distributions” to DAFs and those in full defense of the IRS maintaining the status quo.

Two years have passed since the Notice issuance and the IRS has yet to issue any regulations or proposed regulations. This article highlights some of the major arguments for reform, limits, and the status quo regarding private foundations distributions to DAFs “counting” as qualified distributions.

Read full article [here](#).

[1]See Notice 2017-73, 2017-51 IRB 562 available at <https://www.irs.gov/pub/irs-drop/n-17-73.pdf>.