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Institutional Advisors

The Biggest Incentive for Charitable Gift Annuities Ever

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What the SECURE Act 2.0 has in store for holders of IRAs

The updated Setting Every Community Up for Retirement Enhancement (SECURE) Act 2.0 provides great motivation to think about individual retirement accounts (IRAs) and charitable contributions. Part of the new development is the expansion of the type of charity that is eligible for a qualified charitable distribution (QCD).

Since January 1, 2024, people who are 70½ and older may make a one-time, tax-free gift from their IRAs of up to $53,000 (or $105,000 for a couple) to a charitable gift annuity (CGA). This life-income gift, called a legacy IRA QCD, is different from the standard QCDs approved in the initial SECURE Act.

The legacy QCD will count toward the IRA owner's annual required minimum distribution (RMD) from qualified retirement plans if the gift comes directly from the IRA by the end of a calendar year. If you want to take a tax-free distribution that also can be a source of income, you may want to consider a legacy QCD. Remember, though, that these QCDs can only be made to qualified charities, and you will not get a charitable deduction as you do with other charitable gifts.

Legacy IRA QCD — The basics

The legacy IRA QCD allows for a tax-free withdrawal from your IRA to establish a CGA. It is a once-in-a-lifetime election.

A legacy donor may contribute up to $53,000 through one or more life-income gifts to multiple charities. For example, a donor can fund five $10,600 CGAs with different qualified charities.

The catch? You must be 70½, and the gift cannot span more than one tax year. So, if in 2024 the donor funds a qualified life-income gift with $30,000 from an IRA, they have to use the remaining $23,000 before December 31 of that year or lose the opportunity to make the maximum donation.

There also is no charitable deduction for the legacy QCD as there is with other charitable gifts.

The QCD has been indexed and is now at $105,000 for 2024 (index adjusted annually). This applies to the sum of QCDs made to one or more charities in a calendar year. (If, however, spouses file taxes jointly, the spouse can also make a QCD from his or her own IRA within the same tax year for up to $105,000.)

The legacy QCD works in sync with current tax laws governing standard QCDs, and both types satisfy the owner's RMD. The donor who makes a $50,000 legacy charitable distribution can still contribute up to $50,000 additionally to a standard QCD that same year. The difference is that the only beneficiary of a legacy QCD can be a charitable remainder trust or a charitable gift annuity.

SECURE 2.0 also raised the age when IRA owners must begin to take RMDs, to 73 as of January 1, 2024, and to 75 in 2033. Remember that QCD donations won't satisfy your RMD requirements until you reach that age.

Let us talk payments

A CGA provides the donor a guaranteed fixed payment for life in exchange for an irrevocable transfer of cash or assets to a charitable organization. If a donor utilizes the legacy QCD and creates a charitable gift annuity, they can name themselves and/or a spouse to receive the payments. With a charitable gift annuity funded by a Legacy QCD, there is one caveat: All of the income payments are treated as ordinary income. Income from an annuity that is funded through a non-IRA gift or ordinary funds would have a portion that is tax free.

With CGAs there are a few more things to consider, which is why we highly advise donors to consult with their tax advisor before making the gift.

The CGA and 5% minimum payout

There is a 5% minimum payout for legacy QCD CGAs. However, a charity will have a standard set of rates for CGAs already in place. Typically, that is what the American Council for Gift Annuities publishes annually. The rates that the American Council for Gift Annuities published effective January 1, 2024, for a 70½-year-old (age 71) single life annuity or two life annuity will exceed the 5% minimum. Use caution when considering a CGA when the second spouse is younger than 70½ — you always want to make sure the illustrations provided meet the 5% minimum requirement.

A reminder about standard QCDs

A standard QCD is a direct transfer of funds from your IRA. The firm holding your IRA sends the funds directly to a qualified charity, as described in the QCD provision in the Internal Revenue Code.

A QCD is excluded from your taxable income, which makes it so enticing to IRA owners. Any amount distributed as a QCD can be counted toward satisfying your RMD for the year, up to $105,000 (adjusted for inflation beginning January 1, 2024).

It is important to distinguish between a QCD and taking funds from your IRA and then making a gift to a qualified charity. A regular withdrawal from an IRA is considered just that — a withdrawal, and the funds will be counted as taxable income even if you later offset that income with the charitable contribution deduction.

Most individuals look to reduce their taxable income to avoid the push into a higher tax bracket. A taxable withdrawal could do just that and could also reduce your eligibility for certain tax credits and deductions. Be sure to check with your advisor.

To eliminate or reduce the impact of RMD income, charitably inclined IRA owners may want to consider making a qualified charitable distribution.

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There are nine states that would require approval to add in the mandated language to a CGA contract prior to the donor executing a one-time legacy IRA QCD.

Below are the nine states and their contact information:

Alabama
bene.kyles@asc.alabama.gov

Arkansas
insurance.finance@arkansas.gov

California
CAB-SF-Intake@insurance.ca.gov

Maryland
Maryland Insurance Administration
200 St. Paul Place, Suite 2700
Baltimore, MD 21202-2272

New Jersey
june.duggan@dobi.nj.gov

New York
jeffrey.sandak@dfs.ny.gov

North Dakota
colicexam@nd.gov

Tennessee
vo.cloud.commerce.tn.gov/datamart/mainmenu.do

Washington
login.serff.com/serff/signin.do

For more information, please contact your advisor.

About the Author

As the National Director of Philanthropic Advice, Cindy is responsible for introducing KeyBank's full suite of sophisticated planning solutions to nonprofit and institutional clients, which includes growth strategies, the development of advice, thought leadership, and education on critical topics such as planned giving, fund accounting, charitable trusts, donor advised funds, and other products and services that support endowments, foundations, and pooled special needs trusts.

Cindy joined KeyCorp in 1992 and is dedicated to her profession. Her credentials include earning her CTFA through Cannon Financial Institute and attending the New York State Bankers Association and the New York State Bankers Estate and Administration School. She earned her B.S. in Business Management with a minor in finance at Plattsburgh State College.

She continues her education by attending Cannon Financial Institute, where she participates in the Advanced Trust Topics seminar annually in addition to attending multiple National Pooled Special Needs Trust Conferences. In addition, Cindy has recently obtained her ChSNC® (Chartered Special Needs Consultant) designation from the American College of Financial Services.

Cindy is also committed to serving the community and volunteers at New Vocations, a national nonprofit focusing on rehabilitating, retraining, and rehoming retired racehorses through adoption as well as helping to educate about racehorse aftercare.

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