The Do's and Don'ts of Gifts from IRAs

Date: March 28, 2019

Time: 1:00 – 2:30 Eastern

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Why Do IRAs Matter?

9.5 trillion reasons*

*Investment Company Institute's "The U. S. Retirement Market, 3rd Qtr 2018

Points for Discussion

- Gift officer vs. Donor advisor
- IRA account basics
- 70 ½ - the golden age for donors and charities
- The IRA Charitable Rollover or QCD
- IRA – Lifetime life income gifts
- IRA – Testamentary Gifts
- Challenges dealing with IRA administrators
- Blended gifts using IRAs

Don’t Be the Donor’s Tax Advisor!

- Don’t cross the red line!
- Your statements must be nuanced
- General rules may not apply to a donor
- Many donors are no longer itemizing – especially older donors
- There are complexities with gifts of IRA assets
- Instruct the donor – IN WRITING – consult your advisors

IRA Basics – Traditional IRA

Contributions to IRA are tax deductible if:

- Earned income
- Within modified adjusted gross income (MAGI) limits
- If retirement plan at work, meet MAGI limits
- 2019 contribution limits ($6,000 + $1,000 if over 50)
- May have pre- and post-tax contributions
- Withdrawals taxed as ordinary income (usually)
- 10% penalty on withdrawals if under age 59 ½

IRA Basics – Roth IRA

Contributions are:

- Post-tax
- Not deductible
- Must have earned income
- No age limit to contribute (i.e. after 70 ½)
- Limits on contribution amounts & income
- Withdrawals are tax-free (after account exists for 5 years)

IRA Basics – Case Study - Elaine

- Elaine, 55, withdraws $20,000 from her IRA to make a gift to her alma mater in a campaign. The $20,000 is added to Elaine's gross income.
  - ✓ Is the gift tax deductible?
  - ✓ What about the 10% penalty for early distribution?
  - ✓ What if Elaine "rolls over" the gift to her alma mater?

IRA Basics – Case Study – Anne and Bill

- Anne, 65, and Bill, 68, spouses, want to make a gift for historic preservation. Anne withdraws $18,000 from her IRA account. They no longer itemize deductions
  - ✓ Can Anne do a QCD?
  - ✓ Any penalty for the withdrawal?
  - ✓ Is there any tax benefit to Anne and Bill for this gift?

Age 70 ½ and Older

- Golden years for donor AND charity
- Required minimum distributions (RMD)
- RMD determined by Uniform Lifetime Table
- RMD increases adjusted gross income (AGI)
- Potential negative impact on federal benefits from higher AGI (Social Security taxes, medical deductions, Medicare premiums, etc.)
- Incentive to keep RMD from AGI
- Penalty for not taking RMD – 50% of shortfall

QCD (IRA Charitable Rollover)

Technical term is qualified charitable distribution (QCD)

IRS rules:

- Minimum age is 70 ½ *when the gift is made*
- $100,000 maximum in each tax year (spouses?)
- Traditional or Roth IRA account
- What about SEPs and SIMPLE plans? (advisor alert)
- Gift must go to a 501(c)(3) charity (public charity)
- Transfer from IRA directly to charity

QCD (IRA Charitable Rollover) – Continued

IRS rules (continued):

- No quid pro quo – entire QCD must qualify for a deduction
- No life income gifts, donor advised funds, private foundations
- No charitable deduction for QCD gifts
- Donor must receive substantiation
- QCD to pay a legally binding pledge – OK

QCD and the RMD

- RMD = Required Minimum Distribution
- Calculated with Uniform Lifetime Table
- QCD counts toward the RMD
- RMD added to income; QCD is not
- QCD is not subject to income tax
- No charitable deduction for QCD
- QCDs are tax-free charitable gifts

QCD – Best Prospects

- IRS requirement – age 70 ½+
- Does not need RMD for living expenses
- No longer itemizing deductions
  (renting, no mortgage, in a retirement community)

QCD – Special Issues

- IRA administrator mails check to donor payable to charity
- Donor has IRA checkbook and writes check to charity
- Gala and special event tickets; membership benefits (quid pro quo)
- QCD from Roth IRA accounts
- IRA accounts with pre- and post-tax contributions
- Large gifts that exceed AGI deduction limitations (30/60 rule)

QCD – How to Initiate

- Contact IRA administrator
- Download form or possibly can complete on-line
- IRA checkbook, if available

QCD – Year-end Tax Trap

- Issue: When is the QCD a completed gift?
- IRA administrator check vs. IRA checkbook check
- Does the mailbox rule apply?
- Postmark date vs. Date funds withdrawn from IRA
- Year of the 1099-R will govern for tax purposes

(Special thanks to Russell James, J.D, Ph.D., CFP®)

QCD - Case Study #1 – RMD & QCD Working Together

- Mary, 75, has $500,00 in her IRA. She no longer itemizes. Her RMD this year is $21,834. Mary does QCDs for $10,000 and $2,000 (total $12,000).
  - ✓ Does Mary still need to take an RMD?
  - ✓ If yes, how much must she take for her RMD?

QCD - Case Study #1 – RMD & QCD Working Together

- Yes, Mary still needs to take her RMD
- How much?
- RMD minus QCD
- $21,834 - $12,000 = $9,834 balance of RMD

QCD – Case Study #2(a) – RMD Then QCD

Tim, 80, has an IRA with $750,000. Tim takes his entire RMD of $40,107 in January so he and his wife can take a luxury vacation. Later in the year Tim does a QCD for $80,000 to his alma mater to help them meet a campaign goal.

- ✓ Does Tim have to pay taxes on his $40,107 RMD?
- ✓ Was there any tax benefit to Tim for his $80,000 QCD?

QCD – Case study #2(a) – RMD Then QCD

- Yes, Tim pays taxes on his RMD because he took a distribution from his IRA (taxes on $40,107)
- Yes, there was a tax benefit to the $80,000 QCD
- QCD was tax-free – not included in Tim’s and wife’s income

QCD - Case Study # 2(b) – RMD Then QCD

Tim and wife from case study #2(a). Their adjusted gross income (AGI) was $100,000. Tim's QCD was $80,000

- ✓ Did Tim and his wife benefit from using a QCD?
- ✓ Could they have just as easily written a check to Tim's alma mater and deducted the gift on their taxes?

QCD - Case Study # 2(b) – RMD Then QCD

- Deduction limitation for gifts of cash – 60% of AGI
- If Tim and his wife made a gift of cash, they could only deduct $60,000 in the year of the gift ($100,000 x 60%)
- Entire $80,000 QCD gift is tax-free in year of gift
- No need to carry forward any unused deduction

QCD – Case Study #3 – Disqualified QCD

Elaine lives for operas, and gives her local opera company $3,000/yr. Elaine gets a $250 ticket to the gala for her gift. Elaine turns 70 ½ and does a QCD for $3,000 and the opera company still sends her a gala ticket.

- ✓ Is the QCD ok?
- ✓ Will it count toward Elaine's RMD?

QCD – Case study #3 – Disqualified QCD

- No, the QCD is disqualified!
- Gala tickets are a quid pro quo (not deductible)
- The entire QCD must qualify to receive QCD treatment

So . . .

- $3,000 will be added to Elaine’s taxable income
- She will get an income tax charitable deduction for $2,750; she may or may not be able to use it
- $3,000 withdrawal will still count toward her RMD

QCD – Case Study #4(a) - Year-end QCD

Rick, 78, mails a QCD form to his IRA administrator on 12/19 for a gift to his local animal shelter. The IRA administrator processes the gift on 12/23 & mails check to the animal shelter on 12/26. The animal shelter receives check on 1/2 and deposits the check on 1/5.

- ✓ Is the QCD ok?
- ✓ Will it count toward Rick's RMD? Which year?

QCD – Case Study #4(a) - Year-end QCD

- Assuming IRA administrator withdrew funds from Rick's account on 12/23, should count toward RMD
- Check mailed in December, so postmark is in Dec. (even though postmark is not controlling)
- Should be a valid QCD as IRA administrator will count IRA withdrawal in December – 1099-R will be for Dec.

QCD – Case Study #4(b) – Year-end QCD

Rick from case study #4(a) – Rick has an IRA checkbook and can write checks on his IRA account. Rick has not taken his entire RMD. He writes and mails his IRA check to the animal shelter on 12/26. The shelter receives the check on 12/28, deposits it on 12/30. The IRA administrator withdraws the funds on 1/3.

- ✓ In what year does the QCD count?
- ✓ Does Rick have an RMD problem?

QCD – Case Study #4(b) – Year-end QCD

- In all likelihood IRA administrator will count as a January QCD, as that is when funds were withdrawn from Rick's IRA account
- Rick may well have an RMD problem for the previous year as the QCD did not count in that year

Case Study - Lifetime CGA Funded with IRA Assets

Cindy, 75, wants to fund $100,000 CGA to benefit her local art museum. Most of Cindy's assets are in her IRA.

Cindy withdraws $100,000 from her IRA and funds the CGA. Cindy's tax bracket is 24%.

- ✓ Is there any special tax advantage to this CGA gift?
- ✓ What if Cindy "rolled over" the assets from her IRA to the museum?

Case Study - Lifetime CGA Funded with IRA Assets

- Cindy’s income tax deduction from the CGA is $45,047
- Income tax due = $24,000 ($100,000 x 24% tax bracket)
- Tax savings = $10,811 ($45,047 x 24% tax bracket)
- Net tax owed = $13,189 ($24,000 - $10,811)
- There was no “special” tax benefit for this gift
- Rolling over the IRA funds to the museum would make no difference

Testamentary Gifts of IRA Assets

- IRA is non-probate asset
- Income in respect of a decedent (IRD)
  - ✓ Assets owned by a decedent but never taxed
  - ✓ IRA, 401(k), 403(b), other retirement accounts
- Income tax benefit when charity is the beneficiary
- Inherited IRA

Tax Cost of an IRA Beneficiary Designation

Sandra is doing estate planning. She has an IRA with a value of $300,000. She is hoping it will be worth about the same at her death. Sandra is deciding if she should leave the IRA to her son and put charities in her will, or vice versa.

	IRA to Individual	IRA to Charity
Gift Value	$300,000	$300,000
Income tax (35%)	$105,000	$0
Net to beneficiary	$195,000	$300,000

IRA Beneficiary Designations

- Making charity the beneficiary of an IRA
- Form vs. online
- Charities with similar names
- Designating the gift for a program
- Percentage vs. specific amount
- When the estate becomes the beneficiary – pitfalls
- Spousal consent for non-spouse beneficiaries

Collecting IRA Beneficiary Gifts

- Experiences by various charities
- No requirement for IRA administrator to notify charity
- IRA administrator demands
- Personal information required of leadership
- Charity options to obtain funds
  - ✓ Give in to IRA administer demands
  - ✓ Open an inherited IRA
  - ✓ Just say “no”

Testamentary IRA Funding of Life Income Gifts

- Why do this?
- Heirs who lack financial management skills, marriage instability, mental challenges, addictions, etc.
- Tax issue if IRA assets distributed to an individual
- Why use IRA assets vs. probate estate assets?

Testamentary CGA Funding Using IRA Assets

Private Letter Ruling 200230018

- ✓ Charity exempt status not adversely affected by receipt of IRA assets
- ✓ Value of IRA included in decedent's estate
- ✓ Estate tax deduction for PV of charitable remainder
- ✓ *If charity is the beneficiary, IRD to charity and not decedent*

- Donor's estate need not pay income taxes on IRA assets
- Spouse annuitant – charitable deduction & marital deduction
- Unresolved – taxation of investment in the contract

Case Study – Testamentary CGA - Mary and Oscar

- Oscar, 77, passes away owning a $100,000 IRA. Oscar names a charity as the beneficiary, to fund a CGA with his wife, Mary, 76, as the annuitant.
  - ✓ Funding - $100,000
  - ✓ Annuity rate – 6.4%
  - ✓ Annual annuity payment - $6,400
  - ✓ Taxation of payments – all ordinary income (funded w/ IRD)
  - ✓ Estate tax charitable deduction - $46,407 (3.4% discount rate)
- See sample testamentary CGA agreement as Appendix 2
- Procedure to establish testamentary life income gift

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Case Study – Testamentary CGA - Mary and Oscar

- Benefits to Mary of CGA
  - ✓ Lifetime annuity payments with a rate of 6.4%
  - ✓ Payments are fixed with general obligation of the charity
  - ✓ No market risk to Mary – no chance IRA gets depleted
- Generous gift to a favorite charity
- What if Mary was the beneficiary and rolled over the IRA to an inherited IRA?
  - ✓ Mary must take RMD, needed or not

Testamentary CGA Funded with IRA

1. Transfer of Property by Donor

Charity certifies that the Donor, as an evidence of [*his/her*] desire to support the work of Charity and to make a testamentary charitable gift, has arranged to contribute to Charity upon [*his/her*] death the property described in Schedule A, attached hereto, the fair market value of which, for purposes of this Agreement, is to be determined upon [*his/her*] death. This transfer shall be deemed an irrevocable gift to Charity, and the property contributed shall be deposited in the general fund of Charity.

Testamentary CGA Funded with IRA

2. Payment of Annuity

In consideration of the property to be transferred to Charity upon the death of the Donor, Charity shall pay from the general fund of Charity to [*name of annuitant*] of [*street address*], [*city*], [*state*] [*zip code*] (hereinafter "the Annuitant"), for so long as the Annuitant may survive the Donor, an annual annuity equal to the fair market value of the property described in Schedule A multiplied by the charitable gift annuity rate [*then published by the American Council on Gift Annuities* or *then paid by Charity*] for a person the age of the Annuitant upon the date of death of the Donor.

Testamentary CGA Funded with IRA

3. Payment Dates; First Installment

The annuity shall be paid in equal [*monthly, quarterly, semi-annual, annual*] installments. The first installment shall be payable on the last day of the calendar [*month, quarter, half-year, year*] in which occurs the date of death of the Donor, and shall be prorated on the basis of the number of days in the initial payment period. Subsequent installments beginning on the last day of the following [*month, quarter, half-year, year*] and continuing every [*month, quarter, half-year, year*] thereafter shall be for the full [*monthly, quarterly, semi-annual, annual*] amount.

Testamentary Funding of a CRT Using IRA Assets

- IRA can name a charitable remainder trust (CRT) as the beneficiary
- CRT is tax exempt – no IRD problem
- Estate tax deduction for PV of charitable interest
- CRT agreement should be in place at time of death
- Advisor should consult state and federal laws to ensure IRA distribution to a CRT gets all tax benefits

Case Study - Testamentary CRUT – Harold/Sister Agnes

Harold, 77, died survived by sister Agnes, 65. Harold had provided income to Agnes and he wanted that to continue in the event he predeceased her, while also making a gift to charity. Harold designates a CRUT as the beneficiary of his IRA.

- Funding - $250,000
- Source of funding – IRA (IRD asset)
- Pay-out rate – 5%
- Charitable deduction - $112,828 (3.4% discount rate)
- Payment in year 1 - $12,500 (5% x $250,000)
- Taxation – most likely all ordinary income

Blended Gifts Using IRA Assets

- Use IRA for outright (QCD) & testamentary giving
- Don't ignore other means of giving (cash and appreciated stock)
- Show a donor how to give more than they thought they could

Case Study - Blended Gifts Using IRAs - $1M Research

Frank, 77, wants to fund a $1M gift for hospital research into the disease that caused his wife's death. Frank does not want to fund the entire $1M during his lifetime. The hospital says $250,000 now, $250,000 in 5 years, balance from Frank's estate. Research can begin after receipt of first $250,000.

	Year 1
Cash	$50,000
Stock	$100,000
QCD	$100,000
	$250,000

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Case Study - Blended Gifts Using IRAs - $1M Research

Years 2 -5

• QCDs (legally binding pledge)	$250,000
• Total lifetime funding	$500,000
Gift to be received at death	
• 5% CRUT funding (remainder unknown)	$300,000
• IRA beneficiary	$200,000
• TOTAL FUNDING	$1,000,000

Case Study - Blended Gifts Using IRAs - $1M Research

Will back-up for any shortfall to reach $1M

Case Study – Blended Gift Using IRAs - $250,000 Scholarship

- Marsha, 73, & Alex, 75, want to fund a $250,000 endowed scholarship at their alma mater. Marsha has a $500,000 IRA, Alex a $300,000 IRA. They plan to sell their house in 2 years, which has $400,000 in equity. They have few other assets.

Gift Plan

✓ QCD Marsha	$75,000	(over 5 yrs.)
✓ QCD Alex	$25,000	(over 5 yrs.)
✓ Pledge due in 5 yrs.	<u>$50,000</u>	(sale of house)
✓ Gifts during lifetime	$150,000	

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Case Study – Blended Gift Using IRAs- $250,000 Scholarship

Gifts during lifetime	$150,000
Beneficiary Designations	
• Benef. Designation Marsha	$75,000
• Benef. Designation Alex	$25,000
TOTAL GIFT	$250,000

Summary – Gifts Using IRA Assets

- Trillions of dollars in IRA accounts
- QCD for outright IRA giving
- IRA beneficiary designation for testamentary giving
- IRA to fund testamentary life income gifts
- Blended IRA gifts enable the donor to give more
- Know the Do's and Don'ts of IRA charitable gifts
- Don't be the donor's advisor!

The IRA, once a bit player, has become the star of the show!

Questions?

Still Have a Question?

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