
Charitable IRA Rollovers: Making Gifts to Charity From IRAs

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Since 2006, Congress has enacted several pieces of legislation that provide that certain distributions from an IRA be excluded from gross income to the extent that they are qualified charitable distributions. The exclusion, commonly called a Charitable IRA Rollover, became permanent at the end of 2015. Given the changes to the income tax laws that took affect earlier this year, this provision of the tax code may become an even more attractive method for making charitable donations for some individuals.

The Specifics: Tax laws mandate that individuals age 70 ½ or older take a required minimum distribution each year from their IRAs. Normally, distributions from an IRA to an individual are treated as income and subject to income tax. The Charitable IRA Rollover permits individual taxpayers who are at least age 70 ½ to make qualified charitable contributions of up to \$100,000 each year directly from an IRA *without having to recognize as income* the amount withdrawn and paid to charity.

- **Age Requirement:** Charitable IRA Rollovers are permitted only for individuals who are age 70 ½ or older.
- **Direct Payment:** A qualified charitable distribution must be made directly by the IRA administrator to a charitable organization. The distribution check must be made payable to a qualified charitable organization and not to the taxpayer (IRA account owner).
- **Qualified Charitable Organization:** A qualified charitable organization is a charitable organization other than a private foundation, donor advised fund, supporting organization, or life-income gift (such as a charitable remainder trust or charitable gift annuity). In most circumstances, colleges, churches and public charities will qualify.

- **IRAs Only:** Transfers must be made from an IRA. Distributions from employer-sponsored retirement plans, including SIMPLE IRAs and simplified employee pensions (SEPs), are not covered unless those accounts are first rolled into an IRA.
- **Charitable Deduction:** The exclusion applies only if a charitable contribution deduction for the entire distribution otherwise would be allowable (determined without regard to the generally applicable percentage limitations). If the deductible amount otherwise would be reduced because of a benefit received in exchange for the contribution, or if a deduction would not be allowable because the donor did not obtain sufficient substantiation, the exclusion would not be available with respect to any part of the IRA distribution. The taxpayer is not eligible for a charitable income tax deduction on any amount donated through a Charitable IRA Rollover since the taxpayer receives the benefit of not having to pay income tax on the amount given to charity.
- **Limit of \$100,000 per year:** Any amount up to \$100,000 can be given to charity each year (regardless of what the required minimum distribution from the account may be). Any qualified charitable distribution in excess of \$100,000 in any given year must be included in income as would be any other distribution from an IRA. For married couples, each spouse may make a Charitable IRA Rollover from his or her own account, thereby transferring up to a combined amount of \$200,000 a year.
- **Required Minimum Distribution:** For purposes of fulfilling required minimum distribution rules applicable to IRAs (the amount that is required by law to be withdrawn in any given year once the taxpayer reaches the age of 70 ½), qualified charitable contributions count towards such minimum distribution requirements. For example, if the required minimum distribution for the tax year is \$10,000 and a \$6,000 qualified charitable distribution is made, the taxpayer would be required to withdraw an additional \$4,000 (as a distribution to himself) to satisfy that year's required minimum distribution.

Taxpayers Most Likely to Benefit: Making charitable distributions directly from an IRA is particularly beneficial from an income tax perspective for the following categories of taxpayers:

- The taxpayer is 70 ½ and is required to take a minimum distribution from his IRA that he does not need, or
- The taxpayer is subject to the phase-out limitation on itemized deductions, or
- Charitable gifts made by the taxpayer have reached 60% of adjusted gross income, or
- The taxpayer does not itemize deductions but makes gifts to charity. (It is anticipated that fewer taxpayers will itemize deductions beginning in 2018 as a result of the significant increase in the standard deduction to \$12,000 for individuals and \$24,000 for married couples filing jointly.)

Example 1

Jane is 75 years old and has \$1,000,000 in her IRA. The required minimum distribution for this year is \$43,000. Jane would like to donate \$20,000 to her favorite charity and withdraw \$23,000 for her personal expenses. Jane may ask the administrator of her IRA to make a gift of \$20,000 directly to her favorite charity. Jane would pay income tax on the \$23,000 that she withdrew for her personal expenses but would not pay income tax on the \$20,000 used to make the donation. Jane has met her minimum required distribution without having to pay taxes on the money that she did not need for her personal use.

Example 2

John is 75 years old and has \$1,000,000 in his IRA. The required minimum distribution for this year is \$43,000. John would like to donate \$100,000 to his favorite charity. John may ask the administrator of his IRA to make a gift of \$100,000 directly to his favorite charity. John would not pay income tax on the \$100,000 used to make the donation. John has met his minimum required distribution without having to pay taxes on the money that he did not need for his personal use and would not be penalized for donating more than his required minimum distribution.

If you would like to discuss the Charitable IRA Rollover further, or how it might be beneficial in your situation, please contact Sue or another member of our trust, estates, & wealth preservation team.

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About the Author



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concentrates her practice in the areas of estate planning and administration and wealth transfer. She assists clients in the preparation, revision and updating of estate planning documents including wills, revocable living trusts, irrevocable life insurance trusts, powers of attorney (for both asset management and health care), and living wills. Sue also advises individuals on planning for and minimizing estate taxes, and counsels clients on the development of gifting strategies, including annual exclusion gifting and charitable gift planning. Sue also counsels clients on asset protection issues. Contact Sue directly at shh@ymh.com or 919-782-6860.

The information contained in this article is of a general nature and is not intended as, nor should it be relied upon for, legal advice. No action should be taken in reliance upon the information contained in this article without obtaining the advice of an attorney.

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