

Charitable Giving, A New Way

By Helena S. Mock

If you want to make a gift to a qualifying charitable organization but do not have cash on hand to make the gift, there is a new option available. Much of the average person's wealth is tied up in IRAs and Qualified Retirement Plans. With some restrictions, the law now allows you to give part of your IRA directly to charity.

Prior to the new law, you would have had to withdraw money from the IRA, report the income, contribute the money to charity, and take a charitable tax deduction. You might wonder "what's the difference?" because you are still getting the deduction. The difference is that itemized deductions such as charitable contributions must exceed the pre-set standard deduction amount before they are useful. Also, depending on the type of charity and the type of property contributed, charitable contributions are only deductible up to 50% of your income. Under the new rules, however, you are not subject to those limitations with a direct contribution from an IRA.

Example: John is 71 and retired. He has \$500,000 in his IRA and an annual income of \$40,000. John would like to give \$100,000 to his university this year. Previously, John would have had to withdraw \$100,000, increasing his taxable income to \$140,000. Then, he would have been restricted to a charitable deduction of 50% of that, or \$70,000. He could carry over the remaining deduction to future years. However, in the year of the contribution, he would have paid about \$9,000 more in tax. He would still have a carryover of \$30,000, but because he would be in a much lower tax bracket in following years, the deduction would only save him around \$3,000 in tax—a net tax cost of \$6,000 for making a gift to charity!

Under the new law, John can give part of his IRA directly to the institution. The entire amount distributed from the IRA to the charity is excluded from John's income, and he is no longer penalized for giving to charity.

Of course, there are restrictions.

- The exclusion applies *only* to those who are age 70 ½ on the date of the contribution.
- The law applies *only* to IRAs and Roth IRAs—not to 401(k), 403(b), or other retirement plans.
- The law applies *only* to charitable contributions made in 2006 and 2007.
- The exclusion is limited to \$100,000 per taxpayer per year.
- The contribution must be made directly from the IRA custodian to a public charity.
- You cannot receive anything in return for the contribution.

Giftng assets can be a rewarding way to help assist your favorite charity. A qualified estate planning attorney can help you decide the best way to achieve your goals and obtain the best result for you and your charity.

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