

SECURE ACT 2.0

DONOR UPDATES & NEED TO KNOW



IRA to Charitable Gift Annuity Rollover

The Secure Act 2.0 includes many changes designed to encourage retirement savings. Some of which are detailed below. Please contact your financial advisor for specific advice.

The 2022 Secure 2.0 Act allows a one-time rollover of \$50,000 from an IRA to a life income plan. This provision amends Internal Revenue Code Section 408(d)(8) and **creates a limited one-time IRA rollover into certain qualified life income plans**. This qualified charitable distribution (QCD) of up to \$50,000 is permitted on or after January 1, 2023.

The \$50,000 IRA distribution may be to a non-assignable charitable remainder annuity trust (CRAT), standard payout charitable remainder unitrust (CRUT) or immediate charitable gift annuity (CGA). A net income plus makeup unitrust or a deferred payment gift annuity are not qualified charitable entities. The CRUT or CRAT must be funded with only QCDs. There can be no additions of other assets.

The distribution must be to a charitable remainder trust with the remainder interest distributed to an exempt nonprofit. For a charitable gift annuity, it must have a 5% or higher payout rate and be qualified under Section 501(m)(5)(B). Some two life gift annuities with the IRA owner over age 70½ and a spouse under age 62 may need to increase the payout from the ACGA recommended rate to 5% in order to qualify. If charities have filed the ACGA rates or a fixed rate schedule in a regulated state, this selective increase in payout rate may not be permitted by the state insurance commissioner.

The CGA, CRUT or CRAT payouts must either benefit the IRA owner or the IRA owner and spouse. All payments from a charitable remainder trust will be ordinary income. Because there is no investment in the contract under Section 72(c), all payouts from a gift annuity will also be ordinary income.

The bill permits an inflation adjustment starting in 2024. **The \$100,000 limit for current IRA rollover gifts (QCDs) and the \$50,000 one-time QCD limit for gifts to a life income plan will be adjusted for inflation.** The new numbers will be rounded to the nearest thousand dollars. The outright QCD must be a transfer from the IRA custodian to a qualified nonprofit and may not be to a donor advised fund or supporting organization.

With many Baby Boomers reaching their mid-70s in the coming decade, charitable gift annuities are entering a golden age. With greatly increased numbers of potential gift annuitants, the coming decades present the possibility of steady growth in the size of the primary gift annuity market. Donors appreciate the fixed payments and generous fixed rates. Although the opportunity to fund a CGA with a QCD is a one-time provision, donors will enjoy the fixed lifetime payments at favorable fixed rates. First-time IRA rollover to CGA donors may become repeat CGA donors using other funding sources.

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Required Minimum Distribution Age

Starting in 2023, the age for required minimum distributions (RMDs) will increase from 72 to 73. Individuals who are currently taking RMDs will continue to take a distribution each year based on their age.

Matching Contributions for Student Loan Payments

Employers will be permitted to match student loan payments with a contribution to a Section 401(k) or 403(b) retirement plan.

Required Minimum Distribution Penalty Reduced

Starting in 2023, the penalty for failing to take a required minimum distribution will be reduced from 50% to 25%. If the plan participant corrects the failure in a timely manner, the excise tax on the penalty is further reduced to 10%.

Qualified Charitable Distributions Enhanced

The IRA charitable rollover or qualified charitable distribution (QCD) limit of \$100,000 for 2023 will be indexed for inflation starting in 2024. Individuals age 70½ or older are permitted to make distributions from their IRA directly to charity and avoid recognition of income. The act expands the QCD by allowing a one-time transfer of up to \$50,000 to a charitable remainder annuity trust, standard charitable remainder unitrust or immediate charitable gift annuity.

Catch-Up Contributions

During 2023, the catch-up contribution for retirement plan participants age 50+ is \$7,500. Starting in 2025, individuals who are 60-63 will be permitted to make a larger catch-up contribution to Sec. 401(k), 403(b) or 457 plans of greater of \$10,000 or 150% of the catch-up limit for that year. Starting in 2024, individuals who have incomes over \$145,000 will be required to transfer their catch-up contribution to a Roth 401(k) or IRA. This will require them to pay tax on the catch-up contribution, but the future distributions from the Roth account will be tax-free.

Roth 401(k) Plans Exempt From RMDs

Starting in 2024, Roth 401(k) plans as well as Roth IRAs will be exempted from RMDs. With no required distributions, Roth IRA and 401(k) plans will be permitted to increase in value during the life of the owner.

Section 529 Plans Rolled Over to Roth IRAs

If a 529 plan has existed for 15 years and is no longer required because the beneficiary has completed his or her education, then up to \$35,000 of that plan may be rolled over into a Roth IRA for the benefit of that individual.

Charity as Remainder Beneficiary

Individuals with a disability or chronic illness may take IRA distributions over their life expectancy, rather than ten years. If a qualified charity is the remainderman in a trust for the beneficiary who is disabled or chronically ill, the life expectancy stretch is still permitted.

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