Making a direct gift from an IRA to charity for 2013

You generally must take minimum required distributions (RMD) annually from your IRAs and other plans once you reach age 70½. If you have more money in your IRA than you need for your support, you may want to give some or all of the IRA to charity. The American Taxpayer Relief Act of 2012, dated January 1, 2013 renews the charitable IRA rollover legislation.

Who is eligible to make a tax-free IRA charitable rollover?
The Act allows individuals age 70½ or older, at the time of the distribution, to make a direct charitable gift from an IRA of up to $100,000 per year and not have to report the IRA distributions as taxable income on your federal income tax return.

The charitable IRA rollover option has been available since 2006. Because of political negotiations prior to and after the 2012 Presidential election cycle, this gift option was not available in 2012. For this reason, the new law includes special transition rules.

First, the new law allows you to make a direct gift from an IRA to a qualified charity before February 1, 2013 and to treat that gift as having been made in 2012. As such, you can essentially double your gift amount in 2013 if you prefer.

Example: Arthur gives $100,000 from his IRA to his alma mater on January 15 and February 15. The gift made on January 15 is deemed to have been made in 2012. The gift made on February 15 is deemed to have been made in 2013.

Second, the new law also allows you to treat a distribution (RMD or other) from an IRA received in December 2012 as a qualified charitable distribution to the extent that you transfer (in cash) the same amount (up to $100,000) to a qualified charity before February 1, 2013.

Please consult with a qualified tax advisor to determine the most appropriate method to make, track and report any 2012 gifts based upon the transition rules.

How much can I contribute per year?
An eligible individual can make a direct charitable gift from an IRA of up to $100,000 per year. If you own multiple IRAs from which you intend to make direct charitable gifts, the aggregate of these gifts in any one year cannot exceed $100,000. Payments directly to charitable organizations from your IRA can count toward satisfying your required minimum distributions for the year. Please note, however, that if you have already taken your required minimum distribution for the tax year, a reversal or redepositing of your required minimum distribution is not allowed - keeping in mind the 2012 transitional rules discussed above.

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Can I only make charitable distributions from IRAs?
To qualify, the rollover must be from a Traditional IRA or a Roth IRA; rollovers cannot be done from a 401(k), 403(b), Keogh or other qualified plan. Distributions from employer-sponsored retirement plans, including SIMPLE IRAs and simplified employee pensions (SEPs), also do not qualify.

If you only hold assets in your 403(b) plan, for example, you must complete a two-step process to qualify for the charitable rollover provision: (1) you must roll over a nonqualified pension plan into a qualified IRA (this is generally a tax-free rollover); and (2) the qualified IRA can then be used to make the distribution directly to charity.

In addition, you can make the direct charitable gift (1) if you’re the beneficiary of an inherited IRA after the death of the IRA owner and (2) if you have attained the age of 70½ before the distribution is made.

Which charitable organizations qualify?
The charitable organization must be a public charity and cannot be a donor advised fund or supporting organization. Many private (nonoperating) foundations are not eligible donees under this Act. In addition, charitable annuity trusts or unitrusts do not qualify.

To assist the IRA administrator (such as TIAA-CREF) in making the distribution to the charitable organization, it is a good idea to contact the charity to obtain its tax identification number and address. Some charities have a draft letter that can be provided to the IRA administrator to help facilitate the transaction.

Does the gift qualify for a charitable income tax deduction?
Charitable gifts under this provision must be made directly from the IRA administrator to a charitable organization. By having the IRA administrator give the money directly to the charity, (rather than you as the IRA owner receiving a distribution and then later writing a check to the charity), you are able to exclude the IRA distribution from your income. Since the charitable contribution is excluded from your income, you cannot claim an income tax deduction for the donation. By not paying income tax on otherwise taxable income, you are receiving the equivalent of a charitable deduction.

Should I request acknowledgment from the charitable organization?
If the charitable organization does not send you a written acknowledgment of the direct gift, you may wish to inform the organization of your donation and request written acknowledgement of (1) the gift amount, (2) that the organization is a public charity qualified to receive donations from IRAs, and (3) that the gift will not be distributed to a donor advised fund or supporting organization, and that no goods or services were received by you in exchange for the contribution.

Who can benefit from a charitable IRA rollover?
The charitable rollover may be particularly appealing if:

- You Are Required to Take Minimum Distributions and You Wish to Make Charitable Gifts. If you are in minimum distribution stage and are charitably inclined, the qualified charitable rollover provision will allow you to capitalize on this gift without increasing your adjusted gross income.
- You Take the Standard Deduction and Make Charitable Gifts. Approximately two-thirds of taxpayers take the standard deduction and thus, cannot deduct the value of their charitable gifts. If you make a tax-free IRA charitable rollover, you can get the equivalent of a deduction by making gifts directly from your IRA to qualified charities and not being taxed on the income (from the distribution that ordinarily would have been taxable if not for the qualified charitable rollover).
- You Itemize Your Deductions and Typically Maximize Your Charitable Deductions. If you itemize your deductions on your income tax return and typically meet or exceed the adjusted gross income ceilings for the deductibility of your charitable gifts (e.g., 50% of adjusted gross income for cash gifts), the qualified charitable rollover effectively constitutes an additional charitable deduction. A qualified charitable rollover distribution operates separately from the percentage rules that limit the tax benefit of individual charitable giving, since the distribution is not included in your income. Therefore, if you are inclined to give more to charity, the charitable rollover IRA is an ideal way to do that.
- You Itemize Your Deductions and Wish to Minimize the Reduction of Other Allowable Deductions. By not increasing your adjusted gross income (as you would have done had you not made a qualified charitable rollover, but instead took a withdrawal from your IRA and then wrote a check to the charitable institution) through the charitable rollover, you can avoid or minimize the reduction of other allowable deductions that are tied to your adjusted gross income – the 10% adjusted gross income floor on medical expense deductions, and the 2% adjusted gross income floor on miscellaneous itemized deductions.
• Your State Does Not Allow State Income Tax Charitable Deductions. There are several states that either have no deduction for charitable gifts, or have a limited deduction. If a gift is made directly to a charity from an IRA, it does not matter if the charitable deduction is available.

• You Have Made Nondeductible Contributions to Your Traditional IRA and Are Thinking of Completing a Roth Conversion. If you have made nondeductible contributions to a Traditional IRA, distributions from the IRA to charity are deemed to come first from the deductible, or taxable, portion.

Example: You have a Traditional IRA with a balance of $100,000, consisting of $20,000 of nondeductible contributions and $80,000 of deductible contributions and earnings. You have no other IRAs. A total of $80,000 is distributed to a qualifying charity from the IRA. Under present law, the distribution is treated as consisting of deductible, or taxable, contributions first. The total amount that would be includible in income (but for the Qualified charitable rollover distribution) if all amounts were distributed from the IRA is $80,000. Because it is a qualified charitable distribution, no part of the distribution is includible in your income for the year. For purposes of determining the tax treatment of other distributions from the IRA, $20,000 of the amount remaining in the IRA is treated as your nondeductible contributions (i.e., not subject to tax upon distribution). Then, assume you wish to convert the remaining $20,000 of nondeductible contributions to a Roth IRA. If you have no other IRAs (other than the one which holds the $20,000 of now nondeductible contributions), you have essentially provided for a tax-free conversion to a Roth IRA by removing the deductible or taxable portion of your Traditional IRA through the qualified charitable rollover.

Who may not benefit from the charitable rollover distribution?
A qualified charitable rollover is not available if you wish to donate assets to a charitable retained interest trust, a donor advised fund or private nonoperating foundation. Also, this only applies to distributions from a Traditional or Roth IRA. If you do not have an IRA, you cannot take advantage of this option. In addition, state laws differ. Some states do not tax IRA distributions directly to the IRA owner. Thus, since the IRA distribution is not included in your income for state income tax purposes, you would not receive the equivalent of a state income tax charitable deduction through the use of a qualified charitable rollover. If you had made the charitable contribution with nonretirement assets, you may have been able to realize that charitable income tax deduction for state purposes and, therefore, could have realized a state income tax savings.

Contact your TIAA-CREF Advisor for further assessment on this issue and to help you think through your required minimum distributions and income tax planning for 2013.