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## Contributing to Charity from an IRA

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Included in the American Taxpayer Relief Act of 2012 (hereinafter referred to as the “Act”) is a provision that makes it possible for certain owners of Individual Retirement Accounts (“IRAs”) to make charitable contributions directly from those accounts. This opportunity is available only for tax year 2013, and an extension beyond 2013 would require Congressional approval.

If you are eligible, the Act allows **tax-free distributions** from your IRA **if** those distributions are made solely for charitable purposes. Typically, prior to the passage of this Act, funds withdrawn from an IRA were recognized as **taxable income** in the year of the withdrawal, even if the funds were given to charity in the same year. The taxpayer was entitled to an income tax deduction as the “offset.” But for some taxpayers the deduction frequently did **not** equal the increase in taxable income – it was not a one-for-one offset. This problem especially affected taxpayers who were forced to take the “standard deduction.” Taxpayers without a home mortgage deduction or sufficient deductible health expenses generally fell into this category.

If an IRA distribution does not go directly to charity, the distribution is recognized as taxable income, and it is part of “Adjusted Gross Income,” even if the same amount is given to charity. Among other things, Adjusted Gross Income determines the applicability of the new Medicare surtax of 3.8% that is effective beginning in 2013.

Under the Act, in tax year 2013, an IRA holder 70½ or older may transfer up to \$100,000 from his or her IRA to qualifying charitable organizations.

The recipient must be an actual, operating charity described under Internal Revenue Code §170(b)(1)(A). That section basically identifies qualified exempt public charities. Private foundations, supporting organizations, or donor advised funds are **not** qualifying charities.

A qualifying distribution is not considered to be taxable income to the donor and the donor is **not** entitled to a charitable deduction. The distribution **does** count toward the donor’s required minimum distribution for the year in which the gift is made.

The account holder **must be at least 70½** at the time the instructions to make the gift to charity are given. This requirement makes it difficult for anyone turning 70½ in the last few days of December to take advantage of this opportunity in the year in which they turn 70½.

The Act only allows these transfers until Dec. 31, 2013. It is not possible to satisfy future required minimum distributions by making transfers to charity in 2013. However, it is possible to satisfy long-term charitable goals by employing this opportunity. A taxpayer is allowed to transfer up to \$100,000 to charity from an IRA in 2013, and may “pre-give” contributions to a favorite charity using this method. For example, if a donor wishes to give \$5,000 per year for the next 10 years to a qualified charity and meets the age qualifications of the Act, the donor can prepay this contribution by directing the IRA custodian to send the charity \$50,000 from an IRA, prior to Dec. 31, 2013.

Key elements:

- Transfer must be made directly from the IRA Custodian to the charity
- IRA owner must be 70½ or older at the time the transfer is instructed
- Transferred amount is not included in donor's taxable income
- No charitable deduction is available to the donor
- \$100,000 maximum gift to charity from an IRA in 2013
- Any distribution counts toward the donor's 2013 required minimum distribution
- Recipient organization must be a "qualified" charity – 501C (3) Organization

A long-term planning note: Many people make annual gifts to charity using appreciated securities. The deduction allowed is based on the fair market value of the securities at the time of the transfer; in essence, avoiding long-term capital gains taxes. If considering such a gift for 2013, and an IRA owner meets the age qualifications, it makes more sense to transfer the intended gift from the IRA to the charity rather than giving appreciated securities to the charity. At the highest income tax brackets, long-term capital gains may be taxed at 23.8%, but income taxes levied on IRA distributions are likely *much* higher.

*Please contact your Hilliard Lyons Financial Consultant for more information. While Hilliard Lyons does not give tax advice, we thought this strategy may be of interest, as it may affect how required minimum distributions are deployed from an IRA this year. Please consult your accountant or tax attorney to see if this strategy may be suitable for you.*