

SHOULD I USE MY IRA ASSETS TO MAKE MY GIFT?

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For many years it did not make sense to make a charitable gift using cash withdrawn from an Individual Retirement Account (IRA) because the withdrawal was includable in the donor's gross income. Donors who did not itemize deductions would recognize income, but receive no offsetting charitable deduction. Donors who itemized received a charitable deduction, but in many cases the deduction was reduced by limitations on overall itemized deductions, or in the case of large cash gifts, by the specific 50% of adjusted gross income ceiling on the charitable deduction.

The Pension Protection Act of 2006 created a one-time opportunity (which expires December 31, 2007) for you to make gifts using IRA assets without the requirement to include the gift amount in gross income. However, you will not receive a charitable income tax deduction for the gift. An important advantage of this type of gift is that it will count toward your required minimum distribution (RMD) from your IRA. This article is designed to help you understand when it makes sense to take advantage of this opportunity. It is for educational purposes only. Because it does not address many of the nuances of tax and other laws, and because these laws are continually being revised, we urge you to seek the advice of your own attorney, tax advisor, or accountant.

Qualified Charitable Distributions

To qualify for the favorable tax treatment, the gift must meet the following conditions:

- The gift must be from IRAs only
- The qualified charitable distribution is limited to \$100,000 per individual. Spouses can each give this amount from their individual IRAs.
- You must be at least age 70½ at the time of the gift

- The gift must be made directly from the IRA to the charity. It cannot first be deposited to your account and then given to charity.
- The gift must be made to a public charity other than a donor-advised fund or supporting organization; it also cannot fund a life-income gift
- You cannot receive any benefit in return from the charity for making the gift, such as tickets to an event, without causing the entire amount of the transfer from the IRA to the charity to be included in your gross income.

Who Benefits Most from This Opportunity?

Generally speaking, this new opportunity benefits you most if you:

- Are already subject to the 50% of adjusted gross income ceiling on charitable deductions
- Reside in a state with no charitable income tax deduction and which does not tax qualified charitable distributions
- Want to make a large charitable gift and don't have other assets to give.

Beyond these generalizations, there are some rules of thumb that can be useful in determining whether a qualified charitable distribution from an IRA is appropriate for you.

Rules of Thumb for Itemizers. If you itemize your deductions you should consider making your charitable gifts first from highly appreciated capital gain property (held for more than one year) which you intend to sell, second from IRA assets up to the amount of your 2007 RMD, and third from cash and other long-term appreciated property.

An example illustrates why this is the case. Suppose the following facts: Rick and Laura are each 80 years old, married, have a substantial income, and file a joint tax return. Their financial advisor has recommended they sell a long-time stock holding with a market value of \$20,000 and a cost basis of \$5,000. The RMDs from their IRAs for 2007 total \$30,000. They have deductible medical expenses of \$15,000, other itemized deductions of \$10,500, and intend to make a charitable gift to ABC College of \$20,000. The tax results associated with Rick

and Laura making the gift from various assets are shown in Table I.

In this example, Rick and Laura will have the lowest tax liability if they make their \$20,000 gift using the stock the financial advisor is recommending they sell. If they use IRA assets to make the gift and then sell the stock, their overall income tax will be higher because of the capital gains tax they would have to pay on selling the stock. Note that the gift of IRA assets up to their RMD is better than merely writing a check for \$20,000.

Table I

2007 Estimated Federal Income Tax	Gift of Cash	Gift of Stock To Be Sold	Qualified IRA Gift Up To RMD
Interest	25,000	25,000	25,000
Qualified Dividends	30,000	30,000	30,000
Capital Gain	15,000	0	15,000
Taxable Pension	35,000	35,000	35,000
Taxable IRA RMD	30,000	30,000	10,000
Taxable Social Security	25,500	25,500	25,500
AGI	160,500	145,500	140,500
Itemized Deduction	33,381	34,588	14,963
Exemptions	6,800	6,800	6,800
Taxable Income	120,319	104,112	118,737
Tax	18,429	15,879	18,029

Table II

2007 Estimated Federal Income Tax	Gift of Cash	Gift of Stock To Be Sold	Qualified IRA Gift Up To RMD
Interest	20,000	20,000	20,000
Qualified Dividends	5,000	5,000	5,000
Capital Gain	15,000	0	15,000
Taxable IRA RMD	30,000	30,000	10,000
Taxable Social Security	25,500	25,500	23,850
AGI	95,500	80,500	73,850
Itemized Deduction	22,500	22,500	0
Standard Deduction	0	0	12,800
Exemptions	6,800	6,800	6,800
Taxable Income	66,200	51,200	54,250
Tax	7,401	6,401	5,359

Rules of Thumb for Non-Itemizers. If you do not itemize, you should consider making charitable gifts first from IRA assets up to the 2007 RMD amount, second using highly appreciated capital gain property held long-term which you intend to sell, and third using cash or other long-term appreciated property.

Suppose Tom and Elizabeth are 80 years old, married, have a moderate income, and file a joint tax return. Like Rick and Laura, they own stock with a market value of \$20,000 and a cost basis of \$5,000 which they intend to sell. The required minimum distributions from their IRAs for 2007 total \$30,000. They have deductible medical expenses of \$3,000 and other amounts totaling \$2,500 that they could deduct if they itemized. They, too, want to make a charitable gift of \$20,000. Their tax results are shown in Table II.

The best option for Tom and Elizabeth would be to make the gift using their IRA qualified charitable distribution up to the amount of their 2007 RMD, since this will result in the lowest income tax due.

Gifts Above the Required Minimum Distribution Amount

Suppose Martha has an RMD for 2007 of \$30,000, and wishes to make a \$100,000 gift to her favorite environmental charity. Should Martha make a \$100,000 qualified charitable distribution from her IRA? Or should she make a \$30,000 qualified charitable distribution and transfer \$70,000 of cash or long-term appreciated property to the charity? As a general rule, Martha is better off funding the amount of the gift above her 2007 RMD from cash or appreciated property. This assumes, of course, that in using these other assets, Martha does not reduce her personal liquidity to an unacceptable level. It generally is best to let IRA assets grow on a tax-deferred basis and to "stretch out" IRA payments as long as possible. However, if Martha wants to make a significant gift, does not have other assets to give, and her IRA is over-funded, it might well make sense for her to make a qualified charitable distribution of \$100,000. ■

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