

Use this cheat sheet internally or with donors.

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QCD to Life Income Gifts (“Legacy IRA”) Frequently Asked Questions

What is the “Legacy IRA” legislation?

The "Legacy IRA" legislation was enacted as part of the Secure 2.0 Act at the end of 2022. Under certain circumstances, a donor can make a one-time, tax-free Qualified Charitable Distribution (QCD) from their IRA in exchange for a life income gift. This is a once in a lifetime election, subject to the limitations explained below.

How does it work?

The "Legacy IRA" legislation allows a tax-free QCD from an IRA account to establish a charitable gift annuity (CGA) or a charitable remainder trust (CRT). For reasons detailed below, a QCD to a Charitable Remainder Trust (CRT) will usually be impractical and likely not attractive to many donors; the QCD to a Charitable Gift Annuity (CGA) is a more attractive gift vehicle.

How often can a donor use the Legacy IRA QCD?

A donor can take advantage of this opportunity in only one tax year during their lifetime.

How much can a donor contribute?

Up to \$50,000, across one or more gifts, at one or more charities, all of it in one tax year. The total amount distributed counts toward the annual \$100,000 limit for QCDs for that year. (Note that the \$50,000 and \$100,000 limits will be adjusted for inflation each year beginning in 2024.)

If the donor doesn’t use the full \$50,000 in a single calendar year, does it rollover?

No. They can use this opportunity only in one year, there is no rollover or carry forward.

How does the Legacy IRA QCD work with the existing QCD law?

As with QCD outright gifts, QCD life income gifts count towards a donor's required minimum distribution (RMD). The total QCD limit is still \$100,000 per year, but within this limit there is an aggregate limit of \$50,000 for QCD gifts to fund life income vehicles.

For example, a donor could make QCD distributions of \$25,000 to each of two different charities to establish a QCD CGA at each, and make an additional outright QCD of \$50,000 to a third charity, all in the same calendar year.

Is there an age limit?

A donor must be at least age 70½ at the time the donor makes a QCD contribution, either outright or in exchange for a life income vehicle.. If a donor includes a non-donor spouse under age 70½ in a gift annuity, the gift will still qualify so long as the payout amount is at least 5%.

Can a donor make an additional contribution to the CRT to bring it up to our required CRT minimum gift?

No. A donor cannot contribute any other asset to the CRT except for the initial QCD.

Does a QCD to a life income plan satisfy the donor's RMD?

Yes. Just like an outright gift of a QCD, a QCD to fund a life income plan satisfies the donor's RMD dollar for dollar. There is more information about RMDs below.

Can a donor name others to receive payments from a Legacy IRA QCD CGA or QCD CRT?

A donor can only name him or herself and/or a spouse to receive payments.

Are QCD CGA annuity payments taxable?

Yes, the entire amount of annuity payments from a QCD CGA is taxable as ordinary income.

Are QCD CRT payments taxable?

Yes, the entire amount of distributions from a QCD CRT is taxable as ordinary income.

Does the donor get a charitable deduction for a QCD CGA or QCD CRT contribution?

There is no charitable deduction, however, the entire amount of the QCD is excluded from income, which is equivalent to an "above the line" charitable deduction.

What is the minimum payout?

The minimum payout for both QCD CGAs and QCD CRTs is 5%. However, the rate a charity will offer for a QCD CGA will depend upon the age of the annuitant(s) at the time of the gift. Using the ACGA rates effective January 1, 2023, annuity rates for a single life age 70½ (age 71) or two lives, both age 70½ (age 71), will exceed 5%. Use caution if a non-donor annuitant spouse is under 70½ to ensure you're meeting the 5% minimum.

Can a donor fund a deferred/flexible deferred or college annuity with a QCD?

No. The legislation requires that payments from a CGA begin within one year from the date of the IRA distribution.

What about funding a charitable remainder trust with a QCD?

The law permits funding a charitable remainder annuity or unitrust with a QCD. As a practical matter, however, this option is very limited. If a couple both have IRAs and are over 70½ they could jointly contribute \$100,000 to a CRT. But there are costs to setting up and administering a CRT that would make this uneconomical in most cases. Smith's minimum for a CRT is \$100,000. For these reasons, the Legacy IRA QCD will primarily be used with charitable gift annuities (CGA's).

Can a donor contribute an additional asset to fund the CGA?

No, additional assets cannot be combined. Any asset contributed on the same day to the charity for a CGA would have to be used to establish a second CGA on the same date.

How does a donor make a QCD CGA gift?

As with the outright QCD, to qualify, the "legacy" QCD must go directly from the IRA custodian to the charity, it cannot first be distributed to the plan's owner (the donor). To ensure that the transfer happens properly, the donor needs the charity's legal name, their tax ID number (EID), and their legal address. This information, along with the QCD amount, is then given to the custodian, typically through an online form. The custodian will then issue a check directly to the charity. Some plan owners have check writing ability against their IRA accounts. In such cases, a donor could write a check directly to the charity to establish the gift.

How does a donor make a QCD CRT gift?

The trust must be drafted and signed prior to the donor requesting the QCD funding amount. Once the trust has been established, the donor follows the steps above to request a QCD distribution from their IRA custodian to the trustee of the CRT.

How do I determine the gift date?

The legal date of gift for all QCDs, whether outright or used to establish a life income gift, is the date they leave the donor's account. For checks received directly from the IRA custodian, charities can use the date the check is issued. For checks received from donors written against their IRA accounts, best practice is for the charity to contact the donor and request the date the QCD was debited from their IRA.

Can the annuitant assign their income interest in favor of the charity?

No. For a Legacy IRA the income interest in the CGA or CRT is non-assignable.

How do the ages for a QCD and the RMD interact?

A donor can make a QCD beginning at age 70½. Starting in 2023, the age at which RMDs are mandatory is 73. A donor can make a QCD beginning at 70½ and prior to being subject to RMD, but the additional benefit of satisfying the RMD with the QCD does not begin until the donor is subject to RMDs.

What is the Required Minimum Distribution?

Qualified retirement plans, such as 401(k)s and IRAs, are funded with pre-tax income and grow tax-free. However, when the taxpayer withdraws money from those accounts, the withdrawal is taxed as ordinary income. Withdrawals are not required until the plan owner reaches an age subject to the Required Minimum Distribution (RMD), after which the individual must withdraw – and pay income tax on – a certain required minimum amount each year. Beginning in 2023, the age at which RMDs are mandatory is 73. Failure to take the full RMD is subject to a penalty of 25% of the amount not withdrawn. If the individual doesn't want or need their RMD, a QCD is a good way to avoid taxation on the RMD, as well as the penalty for failure to make the full RMD withdrawal.

Example You Can Use

John is 73 and wants to contribute \$20,000 to **your organization**. He has somewhat over \$500,000 in his IRA, and his minimum required distribution would be about \$20,000. He can authorize the administrator of his IRA to transfer \$20,000 directly to **a nonprofit** in a "qualified charitable distribution" or QCD. John will not be eligible for a charitable income tax deduction, but because the entire amount of the QCD is excluded from income, he still receives tax savings. The \$20,000 distributed to **your organization** will be counted toward his annual required minimum distribution (RMD), and he will not pay income tax on the portion given.

Note: 73 is the age when required to take out the RMD. The earliest age John can withdraw voluntarily from his retirement is 59.5. And the earliest he can make a QCD is 70.5. These numbers can get confusing because if John is between 70.5 and 73, he can still make a QCD but will not enjoy the tax advantage if he is not taking out a distribution.