



WILLS, TRUSTS & ESTATES:

— PLAIN AND SIMPLE —

Using Your IRA to Make Gifts to Charity

By: Patricia C. Marcin, Esq. © 2013

If you are at least 70 ½ years old, and you have a traditional IRA, you can give up to \$100,000 from your IRA account directly to charity. As of now, this popular tax strategy is not available after December 31, 2013. This direct transfer avoids your having to recognize the assets transferred to the charity in your gross income for the year.

Direct IRA rollovers to charities are not tax deductible as donations, but correspondingly, they are not treated as income received by you that could trigger higher income taxes and other negative consequences (ex., reduction in social security benefits). Generally, when you take a distribution from your IRA and then make an equivalent gift to charity, you must count the distribution as income and then receive a charitable deduction for amounts you gave to charity. Depending on your tax bracket,

the charitable deduction you receive may not totally offset the taxes you must pay for receiving the distribution from your IRA. In this case, using the IRA charitable rollover would be more beneficial in making your gift to charity.

High income taxpayers must be mindful of the “Pease” limitation, which reduces the amount of itemized deductions that high-income taxpayers are allowed. In the case of a married couple filing jointly for 2013, the limitation kicks in when their adjusted gross income exceeds \$300,000. Income over this amount triggers the itemized deduction limitation. The limitation is the *lesser* of (a) 3% of the adjusted gross income above \$300,000, or (b) 80% of the amount of the itemized deductions otherwise allowable for the taxable year. A large distribution from an IRA can increase a taxpayer’s income to the point where the deduction limitation applies.

To use the charitable IRA rollover, you must be at least 70 ½ years of age and you must direct your IRA trustee to make the contribution directly to the charity. The charity must be a “qualified” charity. (Most public charities and funds held at community foundations are “qualified” charities, and certain contributions to private foundations and other charities will also be treated as “qualified”). The amount which may be excluded from income when using a charitable IRA rollover is limited to \$100,000 per year. For purposes of your annual required minimum distribution (“RMD”), the charitable IRA rollover can be used to satisfy a portion or all of your RMD.

The IRA charitable rollover can be a very beneficial way of making a substantial charitable contribution in 2013. Hopefully, this benefit will be extended for 2014 and beyond, but who knows? If you are over age 70 ½ and are charitably inclined, it would make sense to discuss with your advisors the advisability of making an IRA charitable rollover before year end.

If there is a trusts or estates topic that you would like to know more about, please feel free to email me at pmarcin@farrellfritz.com with your suggestion and I will do my best to cover it in a future column.

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