



IRA Gifts – Dos, Don'ts, and Don't Cross a Red Line

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There are *9.5 trillion* reasons why charities should be paying attention to IRA accounts. That is the amount that is estimated to have been in IRA accounts as of the Third Quarter of 2018.* With the IRA charitable rollover (technically known in the financial planning community as the Qualified Charitable Distribution or QCD) now being a permanent part of the tax law, gift officers should be targeting IRA accounts for major outright, planned, and blended gift commitments. But these gifts do not come without complexities. Gift officers should educate themselves to have a basic knowledge of what is permitted, what is strictly prohibited, and when to say, "Consult your advisor." As you read the Dos and Don'ts below, be vigilant of not crossing the red line of giving the donor tax or legal advice – a red line that often can be difficult to navigate.

Dos

Do consider IRA accounts for blended gift plans, especially now that the QCD can be used to tax-efficiently make an outright gift. For a donor over age 70 ½ who wishes to make a major gift commitment and minimize taxes on the gift, she now has more tax-efficient options than just making your organization the beneficiary of her IRA. For example, if she wants to endow a fund with a gift that will ultimately be \$100,000, she could make a legally binding five-year pledge of \$10,000 per year using a QCD, and the remaining \$50,000 by making your organization the beneficiary of her IRA, assets permitting, or with a provision in her will. *Do know* that a QCD can be used to pay a legally binding pledge.

Do be a good listener and recognize gift possibilities. If the donor tells you they are reluctant to make charitable gifts as they no longer itemize their deductions, ask if they have an IRA account or another type of tax qualified retirement account such as a 401(k) or 403(b). While only the traditional IRA account can be used for a QCD, assuming the donor is 70 ½ or older, the possibility exists that other retirement accounts can be rolled over into an IRA making a QCD gift possible at a later date. (Inactive SEP IRA and SIMPLE IRA accounts may also qualify for a QCD.) This becomes the red line for the gift officer where the donor should be

advised to consult their financial advisor for how to get retirement assets into an account qualifying for a QCD.

Do make donors aware that IRAs are a tax-efficient source for testamentary gift plans.

Assets in qualified retirement accounts are considered *income in respect of a decedent* – IRD assets. IRD assets are either owned by the decedent or owed to the decedent at the time of death and that were never taxed. The remaining balances of IRA and other tax qualified retirement accounts are examples of IRD assets. When these assets are left to individuals, the beneficiaries will ultimately owe income taxes when withdrawing funds from these accounts. When left to charity, no income taxes will be due from the charity. Also, some donors do not wish to leave an inheritance outright to a loved one who has not demonstrated responsible money management. This presents an ideal opportunity for the IRA assets to be left to charity to establish a life income gift, either a charitable gift annuity or charitable remainder trust. The will or trust controlling the distribution of the estate will need to have precise language to this effect. While providing information and even potential wording may be helpful to the donor, be careful not to cross the red line of giving legal advice. If giving suggested wording to the donor, be clear in writing that the intent is for it to be delivered to the donor's legal advisor.

Don'ts

Don't assume that taxes due on IRA withdrawals will be offset by a charitable deduction.

Gift officers have traditionally touted the charitable deduction as offsetting taxes due on the funds used to make charitable gifts. Prior to the 2017 Tax Cuts and Jobs Act, which doubled the standard deduction, many more donors itemized their deductions, including deductions for their charitable contributions. With the standard deduction being doubled starting in 2018 (\$12,000 for individuals, \$24,000 for married filing jointly), donors who withdraw funds from their IRA account may no longer be itemizing deductions. For example, a donor who is 59 ½ but not yet 70 ½ may have entered retirement and started to take withdrawals from an IRA account. If some of those funds are used to make gifts to the donor's favorite charities, the donor is being taxed on the IRA withdrawals, but if using the standard deduction, is getting no direct tax relief from the gifts to charity.

Don't accept QCD gifts if the full amount of the gift would not have been deductible. It is common for arts organizations to offer some quid pro quo for charitable gifts. This is typical if gala tickets having value are given to the donor in exchange for their charitable support. To qualify as a QCD, the IRS requires that a deduction for the entire gift would be allowable. Even if the donor says that other organizations have provided tickets in exchange for QCD gifts, that doesn't make it legal.

Don't cross the red line when providing information to a donor. As there are more complexities and tax laws around IRA gifts and other giving options, be vigilant to stay within the legal boundaries of technical information provided by a gift officer. Always advise the donor to consult their tax and legal advisors to ensure that the gift being proposed will yield the tax and financial benefits being expected by the donor. Just because a gift comes with tax benefits is no assurance that the donor's personal situation will reap those benefits.

Conclusion

If you want to learn more about the Dos and Don'ts of IRA gifts, PG Calc will offer a webinar on Thursday, March 28, 2019 on this topic. You may [register for this webinar](#) on the PG Calc website.

* [The US Retirement Market, Third Quarter 2018](#)