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Qualified Charitable Distributions from Individual Retirement Accounts

Summary

Congress created incentives for charitable giving through qualified charitable distributions (QCDs) from individual retirement accounts (IRAs). The 2017 tax law (P.L. 115-97) may promote greater use of QCDs because certain taxpayers who do not itemize their tax return are likely to benefit from the QCD.

A provision of the Pension Protection Act of 2006 (P.L. 109-280) established the QCD, which allows individuals aged 70½ or older to contribute directly to a qualified charity from their IRA while excluding the distribution from their taxable income.

This provision was made permanent by the Protecting Americans from Tax Hikes Act of 2015 (Division Q of P.L. 114-113). Prior to its permanent enactment, several laws had extended this provision on a one- or two-year basis.

Qualified Charitable Distributions

Traditional and Roth IRAs are tax-advantaged accounts that certain individuals or married couples can establish to accumulate funds for retirement. Contributions to traditional IRAs can be tax deductible, but withdrawals are included in taxable income. Roth IRA contributions are not tax deductible, but withdrawals are generally tax free. Account owners must begin taking annual withdrawals from traditional IRAs—called *required minimum distributions* (RMDs)—at age 70½. These distributions must be included in gross income in the year the distribution occurs, and income taxes must be paid on the distribution's taxable portion. Roth IRAs do not require account withdrawals during an owner's lifetime because contributions are generally made on an after-tax basis. For more information on IRAs, see CRS Report RL34397, *Traditional and Roth Individual Retirement Accounts (IRAs): A Primer*.

Section 1201 of the Pension Protection Act of 2006 (P.L. 109-280) established QCDs, which allow individuals aged 70½ or older to exclude IRA distributions made directly to a qualified charity from gross income (26 U.S.C. § 408[d][8]). QCD features are as follows:

- Individuals must be older than 70½ when the QCD is made;
- Charities must be eligible to receive tax-deductible charitable distributions;
- Contributions must be from traditional IRAs. Certain circumstances may permit QCDs from Roth IRAs, but they are likely uncommon because qualified distributions (i.e., withdrawals that meet certain guidelines) are not included in taxable income (see following bullet point). QCDs cannot be made from ongoing employer-sponsored IRAs (Simplified Employee Pensions [SEP-IRAs] and Savings Incentive Match Plan for Employees [SIMPLE-IRAs]) or from defined contribution retirement plans (e.g., 401[k] plans or 403[b] plans);
- The portion of any distribution that qualifies as a QCD must come from deductible contributions and earnings (i.e., the distribution would have been otherwise included in taxable income). If an IRA includes deductible and nondeductible contributions, the distribution first comes from deductible (i.e., taxable) funds, then from any nondeductible IRA contributions. This feature allows for a larger amount of nondeductible (and, therefore, nontaxable) funds to remain in the IRA for later distributions by the individual;
- QCDs count toward an individual's RMD (e.g., an individual who is required to take a distribution of $5,000 in a year may elect to make a QCD of $3,000, so that the individual only has to withdraw the remaining $2,000 and include it in taxable income);
- The distribution must be a trustee-to-trustee transfer; that is, a direct transfer from the IRA to the charity;
- The maximum QCD is $100,000, although a spouse can also make a $100,000 QCD if the couple files a joint income tax return; and
- The $100,000 maximum QCD does not apply to the overall charitable deduction limit, under which income tax deductions for charitable contributions generally may not exceed 60% of adjusted gross income (AGI). Thus, individuals may make charitable contributions in excess of 60% of AGI using a QCD.

Absent the QCD, some taxpayers who itemize their tax return could achieve the same reduction in their taxable income by including the IRA distribution in gross income, donating the distribution to a charity, and taking a tax deduction for the donation. The QCD's structure allows taxpayers who do not itemize their tax deductions or whose charitable contributions exceed 60% of their gross income can benefit from the QCD.

The 2017 tax law (P.L. 115-97), commonly known as the Tax Cuts and Jobs Act, increased the standard deduction—the dollar amount by which taxable income is reduced—for many taxpayers. Figure 1 in CRS Report R45145, *Overview* *of the Federal Tax System in 2019* estimates that the number of taxpayers submitting individual income tax returns with itemized deductions decreased from 48.7 million in 2017 to 20.4 million in 2018. If taxpayers are less likely to itemize their return, they may be more likely to use the QCD provision.

Legislative History

The Pension Protection Act of 2006

The Pension Protection Act of 2006 (PPA; P.L. 109-280) introduced the QCD. The law made QCDs effective for taxable years beginning after December 31, 2005, and before January 1, 2008.

Following PPA, the provision was renewed four times on a one- or two-year basis as part of *tax extenders* legislation (P.L. 110-343, P.L. 111-312, P.L. 112-240, and P.L. 113-295). Tax extenders are temporary tax provisions that are regularly extended for one or two years and are often passed near the end of the tax year.

Congress can use tax extenders as an opportunity to evaluate effectiveness, to address temporary circumstances, or for budgetary purposes. For more information on tax extenders, see CRS Report R45347, *Tax Provisions That Expired in 2017 ("Tax Extenders")*.

Extension Legislation Enacted in the 111th Through 113th Congresses

PPA's provision for QCDs expired on December 31, 2007. P.L. 110-343 extended this provision until December 31, 2009. The Joint Committee on Taxation (JCT) estimated that this provision would result in a revenue loss of $795 million for FY2009 through FY2018. JCT cost estimates are calculated for 10-year periods, regardless of provision length.

H.R. 4853, the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (P.L. 111-312), extended the QCD provision until December 31, 2011. H.R. 4853 became the legislative vehicle to extend the income tax rates that were scheduled to expire on December 31, 2010. The provision to extend the QCD through December 31, 2011, was included as Section 725 of the Senate amendment to H.R. 4853 (S.Amdt. 4753), which passed the Senate on December 15, 2010. The House passed H.R. 4853, as amended by the Senate, on December 16, 2010. President Barack Obama signed H.R. 4853 into law on December 17, 2010 (P.L. 111-312). JCT estimated that the QCD provision would result in a revenue loss of $979 million for FY2011 through FY2020.

H.R. 8, the American Taxpayer Relief Act of 2012 (P.L. 112-240), extended the QCD provision until December 31, 2013. H.R. 8 was the legislation used to avert scheduled income tax rate increases and the spending reductions required by the sequestration process. JCT estimated that the QCD provision would result in a revenue loss of $1.3 billion for FY2013 through FY2022.

H.R. 5771 (P.L. 113-295) extended the QCD provision through December 31, 2014. JCT estimated that this provision would result in a revenue loss of $384 million for FY2015 through FY2024.

The Protecting Americans from Tax Hikes Act of 2015

The Protecting Americans from Tax Hikes (PATH) Act of 2015 (Division Q of P.L. 114-113) made the QCD provision permanent. The provision was made effective for distributions made in taxable years beginning after December 31, 2014. JCT estimated that the QCD provision would result in a revenue loss of $8.8 billion for FY2015 through FY2025.

For Further Information

Internal Revenue Service, *IRS Publication 590-B: Distributions from Individual Retirement Arrangements (IRAs)* (2018), at https://www.irs.gov/pub/irs-pdf/p590b.pdf.

Joint Committee on Taxation, *Estimated Budget Effects Of The "Tax Relief, Unemployment Insurance Reauthorization, And Job Creation Act Of 2010," Scheduled For Consideration By The United States Senate*, JCX-54-10, December 10, 2010, https://www.jct.gov/publications.html?func=startdown&id=3715.

Joint Committee on Taxation, *General Explanation of Tax Legislation Enacted in 2015*, JCS-1-16, March 14, 2016, https://www.jct.gov/publications.html?func=startdown&id=4874.

Joint Committee on Taxation, *Estimated Budget Effects Of The Tax Provisions Contained In An Amendment In The Nature Of A Substitute To H.R. 1424, Scheduled For Consideration On The Senate Floor On October 1, 2008*, JCX-78-08, October 1, 2008, https://www.jct.gov/publications.html?func=startdown&id=1260.

Joint Committee on Taxation, *Estimated Revenue Effects Of H.R. 5771, The "Tax Increase Prevention Act Of 2014," Scheduled For Consideration By The House Of Representatives On December 3, 2014*, JCX-107-14R, December 3, 2014, https://www.jct.gov/publications.html?func=startdown&id=4677.

Joint Committee on Taxation, *Estimated Revenue Effects Of The Revenue Provisions Contained In An Amendment In The Nature Of A Substitute To H.R. 8, The "American Taxpayer Relief Act Of 2012, as Passed by the Senate on January 1, 2013"*, January 1, 2013, JCX-1-13. https://www.jct.gov/publications.html?func=startdown&id=4497.

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