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THE DAYTON FOUNDATION
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Futures

A no-nonsense newsletter for estate planners and financial advisors from The Dayton Foundation

IRA Charitable Rollovers – Even Better in 2013

By Joe Oehlers, Partner, Bieser, Greer & Landis

For many years, charitable contributions have been tax deductible. However, the Internal Revenue Code and its regulations have limited the deductibility of charitable contributions, in particular to high-income taxpayers.

One limitation that has applied to all taxpayers is the one that limits the current year deductibility of charitable contributions as a percentage of adjusted gross income. That limitation ranges from 20 percent to 50 percent, depending upon the nature of the gift and the nature of the recipient. Cash gifts to community foundations like The Dayton Foundation generally have been subject to the more advantageous 50 percent limit.

Two other limitations that pertained to some high-income donors were the personal exemption phaseout (PEP) and the Pease Provision. The PEP reduced the amount of high-income taxpayers' personal exemptions incrementally to the extent their adjusted gross income exceeded a threshold level. The Pease Provision had the effect of limiting the deductibility of charitable contributions made by some high-income taxpayers by reducing the total amount of deductions those taxpayers otherwise could claim. The impact of the Pease Provision depended upon the amount of the taxpayers' "excess" income beyond a threshold level and could reduce their otherwise allowable deductions by up to 80 percent.

"...there is good news and bad news to be found in the American Taxpayer Relief Act of 2012...."
–Joe Oehlers

JOE OEHLERS

The good news for taxpayers who otherwise would have been affected by the PEP and the Pease Provision was that those provisions were phased out prior to 2010.

The IRA Charitable Rollover

At 70½ years of age, the owner of a traditional IRA is obligated by law to start drawing down his or her account by taking regular distributions. Typically, those distributions are made and taken in to income by the recipient taxpayer. At that point, the tax that was avoided at the front end is paid at the back end.

A provision of the Pension Protection Act of 2006 permitted certain IRA owners to avoid income tax and satisfy some, or even all, of their minimum IRA distribution requirement by having money transferred directly from their IRAs to charity in the form of a "qualified charitable distribution." This IRA charitable rollover provision expired at the end of 2009, but was retroactively revived through 2011 by the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010.

With an IRA charitable rollover, the IRA money that is distributed bypasses the taxpayer who, rather than taking the distribution as income and then gifting it to a charity, has the money distributed from the IRA directly to a qualified charity. There are two noteworthy tax advantages to this direct distribution approach. First, given that the IRA distribution is never reflected in the taxpayer's adjusted gross income, the impact of the 20/50 percent limitation on deductibility can be reduced or even avoided. Second, for high-income taxpayers, the lower adjusted gross income allows them to avoid some or all of the PEP and Pease Provision adjustments to their allowable deductions.

The general rules pertaining to IRA charitable rollovers are relatively simple and straightforward. First a taxpayer must be 70½ years of age or older on the date of the IRA distribution. Second, there is a $100,000 per year limit on charitable rollovers. Finally, the recipient of the distribution must be a qualified charity. A number of funds within The Dayton Foundation qualify, including their scholarship, field-of-interest, unrestricted and designated funds.

The bad news was that the IRA charitable rollover expired at the end of 2011 and had not been reinstated as of the end of 2012 when the "fiscal cliff" was approaching.

The American Taxpayer Relief Act of 2012

Concerning IRA charitable rollovers, the PEP and the Pease Provision, there is good news and bad news to be found in the American Taxpayer Relief Act of 2012 that was passed on New Year's Day 2013. The bad news is that the PEP and the Pease Provision have returned, with the 2013 versions limiting the personal exemptions and deductions available to married couples filing jointly with adjusted gross incomes of $300,000 or more. The good news is that IRA charitable rollovers, which some feared may be targeted for elimination, also are back in 2013.

A simple illustration of the potential benefits of an IRA charitable rollover appears at the bottom of page two. Often an IRA charitable rollover will not affect the bottom-line results. For donors interested in making gifts that are very large relative to their income,

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however, the IRA rollover can enable them to reduce or avoid the effect of the 50 percent limitation on current deductibility. And for donors who would have adjusted gross income over $300,000, the IRA rollover allows them to reduce, or even avoid, the effects of the PEP and the Pease Provision. Given that another feature of the American Taxpayer Relief Act is a new 39.6 percent top marginal tax rate, the potential value of an IRA charitable rollover is even greater in 2013 than it had been in past years.

The best approach to charitable giving depends upon each donor's specific circumstances. For some, the IRA charitable rollover is an option worth considering, and for the time being, it is an option that will not exist beyond 2013. The Dayton Foundation staff is happy to work with donors and their advisors and explore with them the wide variety of charitable options The Dayton Foundation offers to allow donors to best meet their charitable goals today and in perpetuity. Individuals interested in learning more should contact Joe Baldasare, Vice President of Development, at The Dayton Foundation at (937) 225-9954.

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One IRA Charitable Rollover Option

The Dayton Foundation offers several types of endowed funds that can receive an IRA charitable rollover.

One type of fund unique to community foundations is a discretionary fund that The Dayton Foundation calls a Community Impact Endowment Fund. It enables donors to help the community broadly. This can take the form of an unrestricted, endowed fund, which makes it possible for The Dayton Foundation to meet the greatest opportunities and the most pressing needs of Greater Dayton, no matter how times may change. Or, it can be a lightly restricted fund, called a field-of-interest fund. This gives the Foundation the discretion to aid the community in a similar manner as an unrestricted fund, but within the donor's specific area of charitable interest, such as health, children or the environment.

Either of these types of Community Impact Endowment Funds can make grants in the donors' names or the names of loved ones (if they so choose) today and in perpetuity. They also make it possible for donors to have their fund join with others' to help ensure that resources are available to meet today-unknown community needs for generations to come and have potentially broader impact.

If you'd like to read more about this unique option, go online and check out our brochure, *Community Impact Endowment Funds*, at www.daytonfoundation.org/brochure.html. You also may call Joe Baldasare, Vice President of Development, at (937) 225-9954 for more information or for copies of the brochure.

Illustration: Potential Benefits of an IRA Charitable Rollover

A 72-year-old married couple has ordinary income of $250,000 and a $100,000 required IRA distribution in 2013. They also desire to make a gift of $200,000 to fund a scholarship through The Dayton Foundation. For that couple, an IRA charitable rollover would allow them to meet their charitable objective, while saving more than $8,000 in 2013 federal income taxes, as compared to simply taking the IRA distribution in to their income and then gifting it to The Dayton Foundation. A simple accounting is as follows:

	Without Rollover	With Rollover	Rollover
Other Ordinary Income	$250,000	$250,000	
IRA Distribution	$100,000		$100,000
Adj. Gross Income (AGI)	$350,000	$250,000	
Allowed Charitable Deduction	$175,000	$100,000	
Pease Limitation (3 percent of AGI over $300,000)	$1,500	$0	
Adjusted Deduction	$173,500	$100,000	
Personal Exemptions	$4,680	$7,800	
Taxable Income	$171,820	$142,200	
2013 Federal Income Tax	$35,575	$27,408	

Note: Solutions will differ from case to case. The above does not constitute professional financial or tax advice.

Joe Oehlers is a Partner with the Downtown Dayton law firm of Bieser, Greer & Landis. Bieser, Greer & Landis is a general practice law firm established in 1854 and among other specialties offers business and estate planning to clients in Dayton and the surrounding area.

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donors and families who have stepped forward to become the 2012-2013 "I Believe!" Partners of The Dayton Foundation. Their commitment underwrites a full year of Dayton Foundation publications, thereby freeing resources for the Foundation's other community work.

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