QCDs: Secure Act 2.0 Changes

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Background

- Congress recently passed the Secure 2.0 Act of 2022 as part of its 1,653-page consolidated spending bill, which became law on December 29, 2022 as part of the Consolidated Appropriations Act, 2023.[1] Secure Act 2.0 is a follow up, of course, to the SECURE Act passed in late 2019, and provides several dozen moderate tweaks and improvements to encourage retirement savings.
- One provision, however, does the opposite of encouraging saving for retirement, it tries to encourage giving IRA accounts away. These are changes to the qualified charitable distribution (“QCD”) provisions (IRC Section 408(d)(8)) that encourage QCDs from IRAs to certain charities.

QCD Background

- Someone over age 70 ½ to make distributions from an IRA directly to qualifying charities.
- This threshold has not increased to age 72, nor age 73 or 75 as other RMD provisions have.
- Qualifying sources include inherited IRAs, but does not include a 401(k), 403(b), 457 or other similar accounts.
- Distributions to private operating foundations are acceptable, but not distributions to donor advised funds (DAF), supporting organizations or other private foundations.
- Distributions can count towards someone's required minimum distribution (RMD) as well (if they are old enough to have one).
- While a donor does not get a charitable income tax deduction, a QCD is not included in adjusted gross income (AGI), which is often better for both state and federal income tax purposes.

Changes

- You can use a QCD to fund a charitable gift annuity (CGA) with the taxpayer (and/or spouse) as a recipient, with a one-time election of up to $50,000. But you probably can just buy a commercial annuity with an insurance company and get a better deal financially.
- Enabling QCDs to fund a charitable remainder trust (these being limited to a one-time election capped at $50,000, adjusted for inflation).
- The current limit of $100,000 per year will be indexed for inflation (rounded to nearest thousand) starting next year. For example, if there is an inflation adjustment of 4.8% for next year, the limit may be $105,000 in 2024.

Additional information

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