

IRA Rollover Now!

by Reynolds T. Cafferata

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For more than a decade now, charitable organizations and donors have been waiting for Congress to pass some version of legislation that would allow donors to transfer individual retirement account (IRA) assets to charities without adverse income tax consequences.¹ Under current law, to make a lifetime charitable gift of assets in an IRA, the donor must withdraw the assets from the IRA, include that distribution in income, and then contribute the cash to a charity.² The donor would then claim a charitable contribution income tax deduction for the gift to the extent allowable under law.³

As is discussed more fully below, there is concern that the donor's charitable income tax deduction for the gift will not fully offset the taxable income that the donor is required to include from the IRA distribution.⁴ Furthermore, the charitable income tax deduction for a deferred giving vehicle such as a gift annuity or a charitable remainder trust will never fully offset the income from the IRA distribution because the deduction is reduced by the value of the payments retained by the donor. Donors who do not itemize their deductions also may not effectively be able to offset the IRA distribution income with a charitable contribution deduction. This article assumes the donor is itemizing his or her deductions.

To address these concerns, particularly with respect to deferred gifts, charities have asked Congress to enact legislation that would allow a donor to transfer assets in an IRA directly to a charitable organization as an outright gift or to a deferred gift vehicle without being required to include that distribution in income (rollover legislation). The rollover legislation also provides that the donor does not receive an income tax deduction for the gift of the IRA funds. The idea behind

the rollover legislation is that a donor should not need to be concerned that the deduction for a gift of IRA funds would not fully offset the income of the IRA distribution because of adjusted gross income (AGI) limits on charitable contribution deductions or phaseouts. Particularly, rollover legislation would allow a donor to fund deferred gifts where the deduction would never fully offset the amount of income created by the IRA distribution used to fund the deferred gift.

The rollover legislation is a good idea and should be passed by Congress. Many donors, however, may be unnecessarily delaying gifts from IRAs as they wait for Congress to pass this legislation. It may be possible for many of these donors to achieve the identical or substantially similar tax results under current law that they would achieve if they made an outright gift, or even a deferred gift, under the rollover legislation.

Under current law, there are three concerns that donors face when transferring distributions from an IRA to a charity. First, the gift to the charity may exceed the limit on the percentage of the donor's adjusted gross income that can be offset with charitable deductions.⁵ Second, a donor's itemized deductions may be subject to the phaseout of itemized deductions based on a high income.⁶ Third, with respect to a deferred gift, the amount of the deduction will not equal the amount of money contributed for the deferred gift because the deduction is reduced by the value of the payments retained by the donor. Even working within these confines, however, it may be possible to achieve tax results that are very similar, if not identical, to those that would be achieved if a charitable gift were made under the rollover legislation.

The rollover legislation does not provide tremendous tax savings or benefits with respect to the charitable gift of IRA assets; it mitigates potential adverse consequences of such a gift. Unlike a gift of appreciated property where both the taxation of the gain in value of the property can be avoided and other income can be sheltered, under the rollover legislation there is no income and no deduction. Accordingly, with respect to any donor under existing law who can make a contribution from an IRA and offset that income completely with the charitable contribution income tax

¹See e.g., Section 102 of S. 476 (CARE Act of 2003) and Section 102 of H.R. 7 (Charitable Giving Act of 2003), 108th Cong., 1st Sess. (2003).

²Section 78.

³Section 170.

⁴Deduction may be limited by the adjusted gross income limit of section 170(b) or lost to phaseout of itemized deductions for higher income taxpayers under section 68.

⁵Section 170(b).

⁶Section 68.

deduction, the IRA legislation provides no benefit because that result is the same as having no income and no deduction. The rollover legislation only provides a benefit to a donor whose deduction is limited in some manner such as by the AGI limit on charitable deductions or the phaseout of itemized deductions.

If the donor uses IRA assets to make a deferred gift such as a gift annuity or charitable remainder trust, the charitable contribution income tax deduction will be less than the amount contributed for the deferred gift, and accordingly less than the donor's taxable income from such use of the IRA assets, because the value of the donor's retained interest in the deferred gift reduces the deduction. Under the rollover legislation, all of the distributions from that deferred giving vehicle funded from an IRA will be ordinary income. Accordingly, the character of the distribution from the IRA and the character of the distribution from any deferred giving vehicle funded with IRA assets under the rollover legislation will be identical. Both the IRA and the deferred gift allow tax-free reinvestment of earnings retained in the IRA or deferred gift. With respect to distributions, there is one difference between an IRA and a deferred gift: The IRA is subject to required minimum distributions. Early in retirement, the IRA required minimum distribution, however, is less than the expected payout for most deferred gifts.⁷ In light of these earlier larger principal withdrawals, it is only until late in retirement that the required minimum distribution from an IRA will exceed the distribution that would otherwise be coming from a deferred gift.

Because the IRA rollover legislation is designed only to prevent bad results, it may be possible for donors to find other avenues to avoid those bad results. Other donors may determine that the actual consequences of the phaseout of itemized deductions or AGI limits are sufficiently modest that the benefits of current giving outweigh the modest cost of making the gift. Furthermore, these costs of current giving can be netted out of the gifts so that they are borne by the charity, not the donor. Most charities would happily accept the current IRA gift even if reduced by its tax costs.

For donors that desire to make a charitable gift of IRA assets before enactment of the rollover legislation, the first option for the donor to consider is an annual charitable gift of his or her required minimum distribution from an IRA that is also designated to go to charity at the donor's death. A plan of annual minimum distribution of charitable gifts is shown in Example 1. The benefit of this plan is it allows significant lifetime gifts while maintaining flexibility for the donor to use the IRA for other purposes if needed. The cost of this giving strategy under current law versus

under the rollover legislation is less than 1 percent of the gift.

Second, a donor may wish to be more aggressive and give the maximum amount he or she can under the AGI limit applicable to the donor's charitable gifts. The IRA distribution would be cash, so the donor could offset up to 50 percent of his or her income with gifts to public charities. This level of deduction limit allows the donor to give away an amount equal to his or her adjusted gross income from sources other than the IRA distribution. Example 2 shows a donor giving away an amount equal to his or her income from a source other than the IRA. The cost of making such gifts under current law is about 1.3 percent or, if borne by the charity, 1.7 percent. The cost if the donor bears it assumes that the donor accepts less income. The cost if the charity bears it assumes the donor withholds part of the IRA distribution to cover the taxes. The amount not given to charity decreases the charitable deduction and increases the taxes and overall cost.

Finally, a donor might even withdraw the entire IRA to make a gift to charity. In the year of the gift, the donor's deduction would be limited to 50 percent of his or her AGI. Unless the donor has other income equal to his or her entire IRA, the deduction allowed will be less than the IRA distribution. The donor likely will need to hold back part of the distribution to pay taxes. The donor will be able to carry forward the unused deduction for five years. The donor could give the future tax savings to charity plus the tax benefit of those gifts. Example 3 illustrates a gift of an entire IRA in this manner (less the current year distribution). After the initial gift and the gift of the benefit of the carryforward deductions, the cost of the gift under current law versus under the rollover legislation is about 7 percent.

It would seem that it may be more difficult to make a deferred gift of IRA funds under current law because the donor does not receive a deduction equal to each dollar that goes into the deferred gift. Depending on the age of the donor and the payout rate to the donor from the deferred giving vehicle, the deduction will be some percentage of the amount contributed, typically from 40 percent to 60 percent, but not 100 percent. Accordingly, even if the donor solved the problem of the AGI limit and the phaseout of itemized deductions for the deferred gift, the deduction for the gift would not fully offset the donor's taxable income for the distribution from the IRA.

Transferring funds from an IRA to a deferred giving vehicle does not provide any significant tax benefit to the donor. The IRA and the deferred giving vehicle both have a tax-free reinvestment environment. With respect to funds that would be transferred directly to the deferred giving vehicle from an IRA under the rollover legislation, payments from the deferred giving vehicle would be ordinary income, just like IRA distributions. So the donor can keep the funds in the IRA as well as have the same tax-free investment environment and character of payments as would be the case with a deferred gift. The only difference between the IRA and the deferred gift under the rollover

⁷The first required minimum distribution is 3.2 percent at age 71. The minimum allowable payout rate for a charitable remainder trust is 5 percent. The required minimum distribution for an IRA reaches 5 percent at age 79 and 6 percent at age 83.

Example 1 — Roll Minimum Distribution

Year	Investments	IRA	Min. Dist.	Inv. Income	Gross Income	Excess AGI	State Tax Deduction	Charitable Deduction	Total Deductions	Phaseout	Tax	Net	Correcting Distribution
Current Law													
0	\$5,000,000	\$1,000,000	\$ 39,063	\$200,000	\$239,063	\$ 99,563	\$14,000	\$39,063	\$53,063	\$2,986.88	\$61,455.80	\$138,544.20	\$505
1	\$5,150,000	\$1,030,938	\$41,738	\$206,000	\$247,738	\$108,238	\$14,420	\$41,738	\$56,158	\$3,247.15	\$63,354.09	\$142,645.91	\$540
2	\$5,304,500	\$1,061,365	\$44,595	\$212,180	\$256,775	\$117,275	\$14,853	\$44,595	\$59,448	\$3,518.25	\$65,310.29	\$146,869.71	\$577
3	\$5,463,635	\$1,091,065	\$47,645	\$218,545	\$266,190	\$126,690	\$15,298	\$47,645	\$62,943	\$3,800.70	\$67,326.21	\$151,219.19	\$616
4	\$5,627,544	\$1,119,795	\$50,900	\$225,102	\$276,002	\$136,502	\$15,757	\$50,900	\$66,657	\$4,095.05	\$69,403.70	\$155,698.06	\$658
5	\$5,796,370	\$1,147,281	\$54,117	\$231,855	\$285,972	\$146,472	\$16,230	\$54,117	\$70,347	\$4,394.16	\$71,542.21	\$160,312.60	\$700
6	\$5,970,261	\$1,173,473	\$57,807	\$238,810	\$296,617	\$157,117	\$16,717	\$57,807	\$74,523	\$4,713.51	\$73,748.49	\$165,061.97	\$747
7	\$6,149,369	\$1,197,810	\$61,426	\$245,975	\$307,401	\$167,901	\$17,218	\$61,426	\$78,644	\$5,037.03	\$76,019.22	\$169,955.56	\$794
8	\$6,333,850	\$1,220,231	\$65,253	\$253,354	\$318,607	\$179,107	\$17,735	\$65,253	\$82,988	\$5,373.21	\$78,359.02	\$174,995.00	\$844
9	\$6,523,866	\$1,240,394	\$69,296	\$260,955	\$330,250	\$190,750	\$18,267	\$69,296	\$87,563	\$5,722.51	\$80,769.98	\$180,184.66	\$896
10	\$6,719,582	\$1,257,926	\$73,563	\$268,783	\$342,346	\$202,846	\$18,815	\$73,563	\$92,378	\$6,085.39	\$83,254.26	\$185,529.01	\$951
			\$605,402										\$7,827
													Percent Lost
													0.62%
With CARE Act													
0	\$5,000,000	\$1,000,000	\$39,063	\$200,000	\$200,000	\$60,500	\$14,000	\$0	\$14,000	\$1,815.00	\$61,080.80	\$138,919.20	\$375.00
1	\$5,150,000	\$1,030,938	\$41,738	\$206,000	\$206,000	\$66,500	\$14,420	\$0	\$14,420	\$1,995.00	\$62,953.40	\$143,046.60	\$400.69
2	\$5,304,500	\$1,061,365	\$44,595	\$212,180	\$212,180	\$72,680	\$14,853	\$0	\$14,853	\$2,180.40	\$64,882.18	\$147,297.82	\$428.11
3	\$5,463,635	\$1,091,065	\$47,645	\$218,545	\$218,545	\$79,045	\$15,298	\$0	\$15,298	\$2,371.36	\$66,868.82	\$151,676.58	\$457.39
4	\$5,627,544	\$1,119,795	\$50,900	\$225,102	\$225,102	\$85,602	\$15,757	\$0	\$15,757	\$2,568.05	\$68,915.06	\$156,186.70	\$488.64
5	\$5,796,370	\$1,147,281	\$54,117	\$231,855	\$231,855	\$92,355	\$16,230	\$0	\$16,230	\$2,770.64	\$71,022.69	\$160,832.13	\$519.52
6	\$5,970,261	\$1,173,473	\$57,807	\$238,810	\$238,810	\$99,310	\$16,717	\$0	\$16,717	\$2,979.31	\$73,193.54	\$165,616.91	\$554.94
7	\$6,149,369	\$1,197,810	\$61,426	\$245,975	\$245,975	\$106,475	\$17,218	\$0	\$17,218	\$3,194.24	\$75,429.53	\$170,545.25	\$589.69
8	\$6,333,850	\$1,220,231	\$65,253	\$253,354	\$253,354	\$113,854	\$17,735	\$0	\$17,735	\$3,415.62	\$77,732.59	\$175,621.43	\$626.43
9	\$6,523,866	\$1,240,394	\$69,296	\$260,955	\$260,955	\$121,455	\$18,267	\$0	\$18,267	\$3,643.64	\$80,104.74	\$180,849.89	\$665.24
10	\$6,719,582	\$1,257,926	\$73,563	\$268,783	\$268,783	\$129,283	\$18,815	\$0	\$18,815	\$3,878.50	\$82,548.06	\$186,235.22	\$706.20
			\$605,402										\$5,811.86
													Percent Lost
													0.46%

IRA (\$1,000,000); Other Investments (\$5,000,000); IRA Income (7%); Other Investment Income (4%); Other Growth (3%); Age (72); Phaseout Floor (\$139,500); Phaseout Percent (3%); AGI Limit (50%); Fed Taxes (25%); and State Taxes (7%).

Example 2 — Roll 50% of AGI

Year	Investments	IRA	Min. Dist.	Inv. Income	Gross Income	Excess AGI	State Tax Deduction	Charitable Deduction	Total Deductions	Phase-Out	Tax	Net	Correcting Distribution
Current Law													
0	\$5,000,000	\$1,000,000	\$39,063	\$200,000	\$400,000	\$260,500	\$14,000	\$200,000	\$214,000	\$7,815.00	\$63,000.80	\$136,999.20	\$2,757
1	\$5,150,000	\$870,000	\$35,223	\$206,000	\$412,000	\$272,500	\$14,420	\$206,000	\$220,420	\$8,175.00	\$64,931.00	\$141,069.00	\$2,852
2	\$5,304,500	\$724,900	\$30,458	\$212,180	\$424,360	\$284,860	\$14,853	\$212,180	\$227,033	\$8,545.80	\$66,919.11	\$145,260.89	\$2,949
3	\$5,463,635	\$563,463	\$24,605	\$218,545	\$437,091	\$297,591	\$15,298	\$218,545	\$233,844	\$8,927.72	\$68,966.86	\$149,578.54	\$3,049
4	\$5,627,544	\$384,360	\$17,471	\$225,102	\$450,204	\$310,704	\$15,757	\$225,102	\$240,859	\$9,321.11	\$71,076.04	\$154,025.73	\$3,153
5	\$5,796,370	\$186,163	\$8,781	\$231,855	\$431,050	\$291,550	\$16,230	\$199,195	\$215,425	\$8,746.49	\$72,934.96	\$158,919.86	\$2,837
6	\$5,970,261	\$0	\$0	\$238,810	\$238,810	\$99,310	\$16,717	\$0	\$16,717	\$2,979.31	\$72,984.99	\$165,825.47	\$0
7	\$6,149,369	\$0	\$0	\$245,975	\$245,975	\$106,475	\$17,218	\$0	\$17,218	\$3,194.24	\$75,205.93	\$170,768.84	\$0
8	\$6,333,850	\$0	\$0	\$253,354	\$253,354	\$113,854	\$17,735	\$0	\$17,735	\$3,415.62	\$77,493.50	\$175,860.52	\$0
9	\$6,523,866	\$0	\$0	\$260,955	\$260,955	\$121,455	\$18,267	\$0	\$18,267	\$3,643.64	\$79,849.69	\$181,104.95	\$0
10	\$6,719,582	\$0	\$0	\$268,783	\$268,783	\$129,283	\$18,815	\$0	\$18,815	\$3,878.50	\$82,276.57	\$186,506.71	\$0
								\$1,261,022					\$17,596
													1.40%
With CARE Act													
0	\$5,000,000	\$1,000,000	\$39,063	\$200,000	\$200,000	\$60,500	\$14,000	\$200,000	\$14,000	\$1,815.00	\$60,953.75	\$139,046.25	\$2,047.05
1	\$5,150,000	\$870,000	\$35,223	\$206,000	\$206,000	\$66,500	\$14,420	\$206,000	\$14,420	\$1,995.00	\$62,813.75	\$143,186.25	\$2,117.25
2	\$5,304,500	\$724,900	\$30,458	\$212,180	\$212,180	\$72,680	\$14,853	\$212,180	\$14,853	\$2,180.40	\$64,729.55	\$147,450.45	\$2,189.56
3	\$5,463,635	\$563,463	\$24,605	\$218,545	\$218,545	\$79,045	\$15,298	\$218,545	\$15,298	\$2,371.36	\$66,702.82	\$151,842.58	\$2,264.03
4	\$5,627,544	\$384,360	\$17,471	\$225,102	\$225,102	\$85,602	\$15,757	\$225,102	\$15,757	\$2,568.05	\$68,735.30	\$156,366.47	\$2,340.74
5	\$5,796,370	\$186,163	\$8,781	\$231,855	\$231,855	\$92,355	\$16,230	\$199,195	\$16,230	\$2,770.64	\$70,828.74	\$161,026.07	\$2,106.22
6	\$5,970,261	\$0	\$0	\$238,810	\$238,810	\$99,310	\$16,717	\$0	\$16,717	\$2,979.31	\$72,984.99	\$165,825.47	\$0.00
7	\$6,149,369	\$0	\$0	\$245,975	\$245,975	\$106,475	\$17,218	\$0	\$17,218	\$3,194.24	\$75,205.93	\$170,768.84	\$0.00
8	\$6,333,850	\$0	\$0	\$253,354	\$253,354	\$113,854	\$17,735	\$0	\$17,735	\$3,415.62	\$77,493.50	\$175,860.52	\$0.00
9	\$6,523,866	\$0	\$0	\$260,955	\$260,955	\$121,455	\$18,267	\$0	\$18,267	\$3,643.64	\$79,849.69	\$181,104.95	\$0.00
10	\$6,719,582	\$0	\$0	\$268,783	\$268,783	\$129,283	\$18,815	\$0	\$18,815	\$3,878.50	\$82,276.57	\$186,506.71	\$0.00
								\$1,261,022					\$13,064.84
													1.04%

IRA (\$1,000,000); Other Investments (\$5,000,000); IRA Income (7%); Other Investment Income (4%); Other Growth (3%); Age (72); Phaseout Floor (\$139,500); Phaseout Percent (3%); AGI Limit (50%); Fed Taxes (25%); and State Taxes (7%).

Example 4 — Simulated Gift Annuity

Year	Investments	IRA	Min. Dist.	Simulated GA Distribution	Inv. Income	Gross Income	Excess AGI	State Tax Deduction	Charitable Deduction	Total Deductions	Phaseout	Tax	Net	Correcting Distribution
0	\$5,000,000	\$1,000,000	\$39,063	\$67,000	\$200,000	\$267,000	\$127,500	\$14,000	\$0	\$14,000	\$3,825.00	\$82,896.25	\$184,103.75	\$0.00
1	\$5,150,000	\$1,003,000	\$40,607	\$67,000	\$206,000	\$273,000	\$133,500	\$14,420	\$0	\$14,420	\$4,005.00	\$84,756.25	\$188,243.75	\$0.00
2	\$5,304,500	\$1,006,210	\$42,278	\$67,000	\$212,180	\$279,180	\$139,680	\$14,853	\$0	\$14,853	\$4,190.40	\$86,672.05	\$192,507.95	\$0.00
3	\$5,463,635	\$1,009,645	\$44,089	\$67,000	\$218,545	\$285,545	\$146,045	\$15,298	\$0	\$15,298	\$4,381.36	\$88,645.32	\$196,900.08	\$0.00
4	\$5,627,544	\$1,013,320	\$46,060	\$67,000	\$225,102	\$292,102	\$152,602	\$15,757	\$0	\$15,757	\$4,578.05	\$90,677.80	\$201,423.97	\$0.00
5	\$5,796,370	\$1,017,252	\$47,984	\$67,000	\$231,855	\$298,855	\$159,355	\$16,230	\$0	\$16,230	\$4,780.64	\$92,771.24	\$206,083.57	\$0.00
6	\$5,970,261	\$1,021,460	\$50,318	\$67,000	\$238,810	\$305,810	\$166,310	\$16,717	\$0	\$16,717	\$4,989.31	\$94,927.49	\$210,882.97	\$0.00
7	\$6,149,369	\$1,025,962	\$52,613	\$67,000	\$245,975	\$312,975	\$173,475	\$17,218	\$0	\$17,218	\$5,204.24	\$97,148.43	\$215,826.34	\$0.00
8	\$6,333,850	\$1,030,779	\$55,122	\$67,000	\$253,354	\$320,354	\$180,854	\$17,735	\$0	\$17,735	\$5,425.62	\$99,436.00	\$220,918.02	\$0.00
9	\$6,523,866	\$1,035,934	\$57,873	\$67,000	\$260,955	\$327,955	\$188,455	\$18,267	\$0	\$18,267	\$5,653.64	\$101,792.19	\$226,162.45	\$0.00
10	\$6,719,582	\$1,041,449	\$60,903	\$67,000	\$268,783	\$335,783	\$196,283	\$18,815	\$0	\$18,815	\$5,888.50	\$104,219.07	\$231,564.21	\$0.00
11	\$6,921,169	\$1,047,351	\$64,255	\$67,000	\$276,847	\$343,847	\$204,347	\$19,379	\$0	\$19,379	\$6,130.40	\$106,718.75	\$237,128.02	\$0.00
12	\$7,128,804	\$1,053,665	\$67,978	\$67,000	\$285,152	\$353,151	\$213,631	\$19,961	\$978	\$20,939	\$6,408.92	\$109,369.25	\$242,782.93	\$108.71
13	\$7,342,669	\$1,060,422	\$71,650	\$67,000	\$293,707	\$365,357	\$225,857	\$20,559	\$4,650	\$25,210	\$6,775.71	\$112,305.73	\$248,401.02	\$516.68
14	\$7,562,949	\$1,067,651	\$75,720	\$67,000	\$302,518	\$378,238	\$238,738	\$21,176	\$8,720	\$29,896	\$7,162.14	\$115,352.61	\$254,165.33	\$968.88
15	\$7,789,837	\$1,075,387	\$80,253	\$67,000	\$311,593	\$391,846	\$252,346	\$21,812	\$13,253	\$35,064	\$7,570.39	\$118,517.32	\$260,076.16	\$1,472.53
16	\$8,023,532	\$1,083,664	\$85,328	\$67,000	\$320,941	\$406,269	\$266,769	\$22,466	\$18,328	\$40,794	\$8,003.08	\$121,808.46	\$266,132.83	\$2,036.43
17	\$8,264,238	\$1,092,521	\$91,043	\$67,000	\$330,570	\$421,613	\$282,113	\$23,140	\$24,043	\$47,183	\$8,463.39	\$125,236.17	\$272,333.36	\$2,671.49
18	\$8,512,165	\$1,101,997	\$96,666	\$67,000	\$340,487	\$437,153	\$297,653	\$23,834	\$29,666	\$53,500	\$8,929.59	\$128,746.25	\$278,740.37	\$3,296.27
19	\$8,767,530	\$1,112,137	\$102,976	\$67,000	\$350,701	\$453,677	\$314,177	\$24,549	\$35,976	\$60,525	\$9,425.31	\$132,401.74	\$285,299.47	\$3,997.29
20	\$9,030,556	\$1,122,986	\$110,097	\$67,000	\$361,222	\$471,319	\$331,819	\$25,286	\$43,097	\$68,382	\$9,954.57	\$136,215.14	\$292,007.11	\$4,788.52
21	\$9,301,473	\$1,134,596	\$118,187	\$67,000	\$372,059	\$490,246	\$350,746	\$26,044	\$51,187	\$77,231	\$10,522.38	\$140,201.51	\$298,857.41	\$5,687.45
						\$229,898							Percent Lost	2.15%

Example 4 — Simulated Gift Annuity (continued)

Year	Investments	IRA	Min. Dist.	GA Distribution	Inv. Income	Gross Income	Excess AGI	State Tax Deduction	Charitable Deductions	Total Deductions	Phaseout	Tax	Net	Benefit
With CARE Act														
0	\$5,000,000	\$1,000,000	\$0	\$67,000	\$200,000	\$267,000	\$127,500	\$14,000	\$0	\$14,000	\$3,825.00	\$82,896.25	\$184,103.75	\$0.00
1	\$5,150,000	\$1,003,000	\$0	\$67,000	\$206,000	\$273,000	\$133,500	\$14,420	\$0	\$14,420	\$4,005.00	\$84,756.25	\$188,243.75	\$0.00
2	\$5,304,500	\$1,006,210	\$0	\$67,000	\$212,180	\$279,180	\$139,680	\$14,853	\$0	\$14,853	\$4,190.40	\$86,672.05	\$192,507.95	\$0.00
3	\$5,463,635	\$1,009,645	\$0	\$67,000	\$218,545	\$285,545	\$146,045	\$15,298	\$0	\$15,298	\$4,381.36	\$88,645.32	\$196,900.08	\$0.00
4	\$5,627,544	\$1,013,320	\$0	\$67,000	\$225,102	\$292,102	\$152,602	\$15,757	\$0	\$15,757	\$4,578.05	\$90,677.80	\$201,423.97	\$0.00
5	\$5,796,370	\$1,017,252	\$0	\$67,000	\$231,855	\$298,855	\$159,355	\$16,230	\$0	\$16,230	\$4,780.64	\$92,771.24	\$206,083.57	\$0.00
6	\$5,970,261	\$1,021,460	\$0	\$67,000	\$238,810	\$305,810	\$166,310	\$16,717	\$0	\$16,717	\$4,989.31	\$94,927.49	\$210,882.97	\$0.00
7	\$6,149,369	\$1,025,962	\$0	\$67,000	\$245,975	\$312,975	\$173,475	\$17,218	\$0	\$17,218	\$5,204.24	\$97,148.43	\$215,826.34	\$0.00
8	\$6,333,850	\$1,030,779	\$0	\$67,000	\$253,354	\$320,354	\$180,854	\$17,735	\$0	\$17,735	\$5,425.62	\$99,436.00	\$220,918.02	\$0.00
9	\$6,523,866	\$1,035,934	\$0	\$67,000	\$260,955	\$327,955	\$188,455	\$18,267	\$0	\$18,267	\$5,653.64	\$101,792.19	\$226,162.45	\$0.00
10	\$6,719,582	\$1,041,449	\$0	\$67,000	\$268,783	\$335,783	\$196,283	\$18,815	\$0	\$18,815	\$5,888.50	\$104,219.07	\$231,564.21	\$0.00
11	\$6,921,169	\$1,047,351	\$0	\$67,000	\$276,847	\$343,847	\$204,347	\$19,379	\$0	\$19,379	\$6,130.40	\$106,718.75	\$237,128.02	\$0.00
12	\$7,128,804	\$1,053,665	\$0	\$67,000	\$285,152	\$352,152	\$212,652	\$19,961	\$0	\$19,961	\$6,379.57	\$109,293.42	\$242,858.75	\$75.83
13	\$7,342,669	\$1,060,422	\$0	\$67,000	\$293,707	\$360,707	\$221,207	\$20,559	\$0	\$20,559	\$6,636.20	\$111,945.34	\$248,761.40	\$360.39
14	\$7,562,949	\$1,067,651	\$0	\$67,000	\$302,518	\$369,518	\$230,018	\$21,176	\$0	\$21,176	\$6,900.54	\$114,676.81	\$254,841.13	\$675.80
15	\$7,789,837	\$1,075,387	\$0	\$67,000	\$311,593	\$378,593	\$239,093	\$21,812	\$0	\$21,812	\$7,172.80	\$117,490.23	\$261,103.25	\$1,027.09
16	\$8,023,532	\$1,083,664	\$0	\$67,000	\$320,941	\$387,941	\$248,441	\$22,466	\$0	\$22,466	\$7,453.24	\$120,388.05	\$267,553.24	\$1,420.41
17	\$8,264,238	\$1,092,521	\$0	\$67,000	\$330,570	\$397,570	\$258,070	\$23,140	\$0	\$23,140	\$7,742.09	\$123,372.80	\$274,196.72	\$1,863.36
18	\$8,512,165	\$1,101,997	\$0	\$67,000	\$340,487	\$407,487	\$267,987	\$23,834	\$0	\$23,834	\$8,039.60	\$126,447.10	\$281,039.51	\$2,299.15
19	\$8,767,530	\$1,112,137	\$0	\$67,000	\$350,701	\$417,701	\$278,201	\$24,549	\$0	\$24,549	\$8,346.04	\$129,613.63	\$288,087.59	\$2,788.11
20	\$9,030,556	\$1,122,986	\$0	\$67,000	\$361,222	\$428,222	\$288,722	\$25,286	\$0	\$25,286	\$8,661.67	\$132,875.15	\$295,347.10	\$3,340.00
21	\$9,301,473	\$1,134,596	\$0	\$67,000	\$372,059	\$439,059	\$299,559	\$26,044	\$0	\$26,044	\$8,986.77	\$136,234.51	\$302,824.40	\$3,967.00
													Percent Lost	1.57%

IRA (\$1,000,000); Other Investments (\$5,000,000); IRA Income (7%); Other Investment Income (4%); Other Growth (3%); Age (72); Phaseout Floor (\$139,500); Phaseout Percent (3%); AGI Limit (50%); Fed Taxes (25%); and State Taxes (7%).

Example 5 — Simulated Charitable Remainder Unitrust

Year	Investments	IRA	Min. Dist.	Simulated Unitrust Distribution	Inv. Income	Gross Income	Excess AGI	State Tax Deduction	Charitable Deduction	Total Deductions	Phaseout	Tax	Net	Simulated	Simulated Payout	Correcting Distribution	
Current Law																	
0	\$5,000,000	\$1,000,000	\$39,063	\$60,000	\$200,000	\$260,000	\$120,550	\$14,000	\$0	\$14,000	\$3,615.00	\$80,603.15	\$179,396.25	\$1,000,000	\$60,000	\$60,000	\$0.00
1	\$5,150,000	\$1,010,000	\$40,891	\$60,600	\$206,000	\$266,600	\$127,100	\$14,420	\$0	\$14,420	\$3,813.00	\$82,660.25	\$183,939.75	\$1,010,000	\$60,600	\$60,600	\$0.00
2	\$5,304,500	\$1,020,100	\$42,861	\$61,206	\$212,180	\$273,386	\$133,886	\$14,853	\$0	\$14,853	\$4,016.58	\$84,774.52	\$188,611.49	\$1,020,100	\$61,206	\$61,206	\$0.00
3	\$5,463,635	\$1,030,301	\$44,991	\$61,818	\$218,545	\$280,363	\$140,863	\$15,298	\$0	\$15,298	\$4,225.90	\$86,948.24	\$193,415.22	\$1,030,301	\$61,818	\$61,818	\$0.00
4	\$5,627,544	\$1,040,604	\$47,300	\$62,436	\$225,102	\$287,538	\$148,038	\$15,757	\$0	\$15,757	\$4,441.14	\$89,183.17	\$198,354.84	\$1,040,604	\$62,436	\$62,436	\$0.00
5	\$5,796,370	\$1,051,010	\$49,576	\$63,061	\$231,855	\$294,915	\$155,415	\$16,230	\$0	\$16,230	\$4,662.46	\$91,481.09	\$203,434.33	\$1,051,010	\$63,061	\$63,061	\$0.00
6	\$5,970,261	\$1,061,520	\$52,292	\$63,691	\$238,810	\$302,502	\$163,002	\$16,717	\$0	\$16,717	\$4,890.05	\$93,843.86	\$208,657.80	\$1,061,520	\$63,691	\$63,691	\$0.00
7	\$6,149,369	\$1,072,135	\$54,981	\$64,328	\$245,975	\$310,303	\$170,803	\$17,218	\$0	\$17,218	\$5,124.09	\$96,273.39	\$214,029.50	\$1,072,135	\$64,328	\$64,328	\$0.00
8	\$6,333,850	\$1,082,857	\$57,907	\$64,971	\$253,354	\$318,325	\$178,825	\$17,735	\$0	\$17,735	\$5,364.76	\$98,771.63	\$219,553.79	\$1,082,857	\$64,971	\$64,971	\$0.00
9	\$6,523,866	\$1,093,685	\$61,100	\$65,621	\$260,955	\$326,576	\$187,076	\$18,267	\$0	\$18,267	\$5,612.27	\$101,340.60	\$225,235.15	\$1,093,685	\$65,621	\$65,621	\$0.00
10	\$6,719,582	\$1,104,622	\$64,598	\$66,277	\$268,783	\$335,061	\$195,561	\$18,815	\$0	\$18,815	\$5,866.82	\$103,982.39	\$231,078.21	\$1,104,622	\$66,277	\$66,277	\$0.00
11	\$6,921,169	\$1,115,668	\$68,446	\$66,940	\$276,847	\$345,293	\$205,793	\$19,379	\$1,506	\$20,885	\$6,173.78	\$106,815.83	\$236,971.04	\$1,115,668	\$66,940	\$66,940	\$167.31
12	\$7,128,804	\$1,125,319	\$72,601	\$67,610	\$285,152	\$357,753	\$218,253	\$19,961	\$4,992	\$24,952	\$6,547.60	\$109,879.90	\$242,881.78	\$1,126,825	\$67,610	\$67,610	\$554.64
13	\$7,342,669	\$1,131,490	\$76,452	\$68,286	\$293,707	\$370,159	\$230,659	\$20,559	\$8,166	\$28,726	\$6,919.76	\$112,912.01	\$249,080.33	\$1,138,093	\$68,286	\$68,286	\$782.27
14	\$7,562,949	\$1,134,243	\$80,443	\$68,968	\$302,518	\$382,961	\$243,461	\$21,176	\$11,474	\$32,651	\$7,303.82	\$115,918.81	\$255,567.59	\$1,149,474	\$68,968	\$68,968	\$856.38
15	\$7,789,837	\$1,133,197	\$84,567	\$69,658	\$311,593	\$396,160	\$256,660	\$21,812	\$14,909	\$36,720	\$7,699.81	\$119,011.57	\$262,240.05	\$1,160,969	\$69,658	\$69,658	\$933.05
16	\$8,023,532	\$1,127,954	\$88,815	\$70,355	\$320,941	\$409,757	\$270,257	\$22,466	\$18,461	\$40,926	\$8,107.70	\$122,192.71	\$269,103.29	\$1,172,579	\$70,355	\$70,355	\$1,012.18
17	\$8,264,238	\$1,118,095	\$93,175	\$71,058	\$330,570	\$423,744	\$284,244	\$23,140	\$22,116	\$45,256	\$8,527.32	\$125,464.67	\$276,163.12	\$1,184,304	\$71,058	\$71,058	\$1,093.60
18	\$8,512,165	\$1,103,187	\$96,771	\$71,769	\$340,487	\$437,257	\$297,757	\$23,834	\$25,002	\$48,836	\$8,932.72	\$128,821.70	\$283,433.76	\$1,196,147	\$71,769	\$71,769	\$1,165.31
19	\$8,767,530	\$1,083,640	\$100,337	\$72,487	\$350,701	\$451,038	\$311,538	\$24,549	\$27,850	\$52,400	\$9,346.15	\$132,273.57	\$290,914.17	\$1,208,109	\$72,487	\$72,487	\$1,237.43
20	\$9,030,556	\$1,059,157	\$103,839	\$73,211	\$361,222	\$465,061	\$325,561	\$25,286	\$30,628	\$55,913	\$9,766.84	\$135,822.77	\$298,610.88	\$1,220,190	\$73,211	\$73,211	\$1,309.51
21	\$9,301,473	\$1,029,459	\$107,235	\$73,944	\$372,059	\$479,294	\$339,794	\$26,044	\$33,292	\$59,336	\$10,193.83	\$139,471.77	\$306,630.66	\$1,232,392	\$73,944	\$73,944	\$1,381.01
									\$196,396								\$10,492.69
																	Percent Lost 0.85%

Example 5 — Simulated Charitable Remainder Unitrust (continued)

Year	Investments	IRA	Min. Dist.	Simulated Unitrust Distribution	Inv. Income	Gross Income	Excess AGI	State Tax Deduction	Charitable Deduction	Total Deductions	Phaseout	Tax	Net	CRT	Payout	Benefit	
With CARE Act																	
0	\$5,000,000	\$0	\$0	\$60,000	\$200,000	\$260,000	\$120,500	\$14,000	\$0	\$14,000	\$5,615.00	\$80,603.75	\$179,396.25	\$1,000,000	\$60,000	\$0.00	
1	\$5,150,000	\$0	\$0	\$60,600	\$206,000	\$266,600	\$127,100	\$14,420	\$0	\$14,420	\$3,813.00	\$82,660.25	\$183,939.75	\$1,010,000	\$60,600	\$0.00	
2	\$5,304,500	\$0	\$0	\$61,206	\$212,180	\$273,386	\$133,886	\$14,853	\$0	\$14,853	\$4,016.58	\$84,774.52	\$188,611.49	\$1,020,100	\$61,206	\$0.00	
3	\$5,463,635	\$0	\$0	\$61,818	\$218,545	\$280,363	\$140,863	\$15,298	\$0	\$15,298	\$4,225.90	\$86,948.24	\$193,415.22	\$1,030,301	\$61,818	\$0.00	
4	\$5,627,544	\$0	\$0	\$62,436	\$225,102	\$287,538	\$148,038	\$15,757	\$0	\$15,757	\$4,441.14	\$89,183.17	\$198,354.84	\$1,040,604	\$62,436	\$0.00	
5	\$5,796,370	\$0	\$0	\$63,061	\$231,855	\$294,915	\$155,415	\$16,230	\$0	\$16,230	\$4,662.46	\$91,481.09	\$203,434.33	\$1,051,010	\$63,061	\$0.00	
6	\$5,970,261	\$0	\$0	\$63,691	\$238,810	\$302,502	\$163,002	\$16,717	\$0	\$16,717	\$4,890.05	\$93,843.86	\$208,657.80	\$1,061,520	\$63,691	\$0.00	
7	\$6,149,369	\$0	\$0	\$64,328	\$245,975	\$310,303	\$170,803	\$17,218	\$0	\$17,218	\$5,124.09	\$96,273.39	\$214,029.50	\$1,072,135	\$64,328	\$0.00	
8	\$6,333,850	\$0	\$0	\$64,971	\$253,354	\$318,325	\$178,825	\$17,735	\$0	\$17,735	\$5,364.76	\$98,771.63	\$219,553.79	\$1,082,857	\$64,971	\$0.00	
9	\$6,523,866	\$0	\$0	\$65,621	\$260,955	\$326,576	\$187,076	\$18,267	\$0	\$18,267	\$5,612.27	\$101,340.60	\$225,235.15	\$1,093,685	\$65,621	\$0.00	
10	\$6,719,582	\$0	\$0	\$66,277	\$268,783	\$335,061	\$195,561	\$18,815	\$0	\$18,815	\$5,866.82	\$103,982.39	\$231,076.21	\$1,104,622	\$66,277	\$0.00	
11	\$6,921,169	\$0	\$0	\$66,940	\$276,947	\$343,787	\$204,287	\$19,379	\$0	\$19,379	\$6,128.61	\$106,699.13	\$237,087.74	\$1,115,668	\$66,940	\$116.70	
12	\$7,128,804	\$0	\$0	\$67,610	\$285,152	\$352,762	\$213,262	\$19,961	\$0	\$19,961	\$6,397.85	\$109,493.04	\$243,268.64	\$1,126,825	\$67,610	\$386.86	
13	\$7,342,669	\$0	\$0	\$68,286	\$293,707	\$361,992	\$222,492	\$20,559	\$0	\$20,559	\$6,674.77	\$112,366.37	\$249,625.97	\$1,138,093	\$68,286	\$545.63	
14	\$7,562,949	\$0	\$0	\$68,968	\$302,518	\$371,486	\$231,986	\$21,176	\$0	\$21,176	\$6,959.59	\$115,321.48	\$256,164.92	\$1,149,474	\$68,968	\$597.32	
15	\$7,789,837	\$0	\$0	\$69,658	\$311,593	\$381,252	\$241,752	\$21,812	\$0	\$21,812	\$7,252.55	\$118,360.77	\$262,890.85	\$1,160,969	\$69,658	\$650.80	
16	\$8,023,552	\$0	\$0	\$70,355	\$320,941	\$391,296	\$251,796	\$22,466	\$0	\$22,466	\$7,553.88	\$121,486.72	\$269,809.29	\$1,172,579	\$70,355	\$705.99	
17	\$8,264,238	\$0	\$0	\$71,058	\$330,570	\$401,628	\$262,128	\$23,140	\$0	\$23,140	\$7,863.83	\$124,701.89	\$276,925.91	\$1,184,304	\$71,058	\$762.79	
18	\$8,512,165	\$0	\$0	\$71,769	\$340,487	\$412,255	\$272,755	\$23,834	\$0	\$23,834	\$8,182.66	\$128,008.90	\$284,246.56	\$1,196,147	\$71,769	\$812.81	
19	\$8,767,530	\$0	\$0	\$72,487	\$350,701	\$423,188	\$283,688	\$24,549	\$0	\$24,549	\$8,510.63	\$131,410.47	\$291,777.28	\$1,208,109	\$72,487	\$863.11	
20	\$9,030,556	\$0	\$0	\$73,211	\$361,222	\$434,434	\$294,934	\$25,286	\$0	\$25,286	\$8,846.01	\$134,909.38	\$299,524.27	\$1,220,190	\$73,211	\$913.39	
21	\$9,301,473	\$0	\$0	\$73,944	\$372,059	\$446,002	\$306,502	\$26,044	\$0	\$26,044	\$9,195.07	\$138,508.52	\$307,493.92	\$1,232,392	\$73,944	\$963.26	
															Percent Lost		0.595
IRA (\$1,000,000); Other Investments (\$5,000,000); IRA Income (7%); Other Investment Income (4%); Other Growth (3%); Age (72); Phaseout Floor (\$139,500); Phaseout Percent (2%); AGI Limit (60%); Fed Taxes (25%); and State Taxes (7%).																	

current law is 0.59 percent of the gift and only 0.85 percent if borne by the charity.

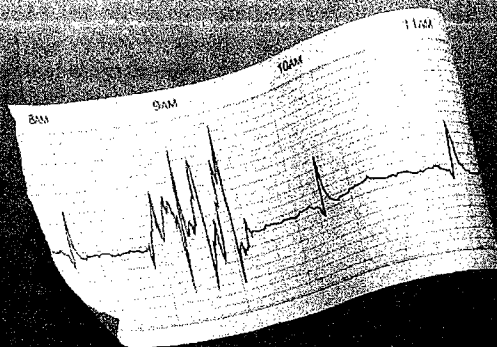
Charities may be concerned that these distribution plans do not create an irrevocable gift in the same manner as a true gift annuity or charitable remainder trust. A donor could, however, sign a pledge agreement to give the charity the required minimum distributions in excess of the distributions that would have come from the deferred gift and to name the charity as the beneficiary of the IRA. Although such a pledge may not be as strong as the irrevocable nature of a gift annuity or charitable remainder trust, it should give the charity some certainty that it will benefit from the gift as intended. The pledge also would serve to document to the donor how the distributions are to be taken from the IRA. The process would be simplified if at the time of the "gift" the donor rolled to a new IRA the funds that were to be used for the deferred gift (assuming the amount is less than the donor's entire IRA). The charity may ask to receive a duplicate account statement to monitor distributions. With a statement, the charity would be able to calculate the annual distribution and gift to charity, if any, for the donor.

The analysis in this article does not diminish the need for rollover legislation. Some donors will find the gifts from an IRA under current law more costly than illustrated here. Most hard hit are donors who are already making large gifts from non-IRA sources who have little or no room for more charitable deductions under the AGI limits. Charities may also wish to push for a permanent elimination of the phaseout of itemized deductions⁹ and an increase in the AGI limits for the charitable deduction.

Donors with strong philanthropic interests and IRA assets that they wish to use to fund their charitable activities should review carefully the option of making the gift under current law. The costs of the gift under current law may be outweighed by the benefit of a current gift. Charities may want to assist donors in making this evaluation to show the donors that they don't all need to wait for an act of Congress to complete a gift. For many donors, the time for a charitable gift of IRA assets is now.

⁹Section 68(i).

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