



News

*For Clients & Friends of GSRP, LLP*

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## **CHARITABLE PLANNING WITH INDIVIDUAL RETIREMENT ACCOUNTS**

The American Taxpayer Relief Act of 2012 was passed into law...in the early hours of 2013. We would like to bring to your attention a provision that, while having received little notice in the press, could be a valuable opportunity to you. Further, you may be able to take advantage of this provision retroactively to 2012, but only if you act before February 1, 2013.

### **Background**

Upon reaching age 70½, an individual owning a traditional IRA is required to take annual minimum withdrawals or face penalties. This Required Minimum Distribution ("RMD") is computed based upon the value of the IRA and the age of the account owner, and is taxed at ordinary income rates.

Under current law, donations to public charities are deductible for income tax purposes, but the deduction is generally limited to 50% of a taxpayer's adjusted gross income (total income before itemized deductions); contributions in excess of the limit can be carried forward for the next five years.

### **Opportunity That Expired at the End of 2011 Has Been Reinstated...Retroactively**

Under a special provision that expired at the end of 2011, individuals age 70½ or older were able to direct up to \$100,000 to be paid from an IRA directly to a charity (with the exception of private foundations and donor-advised funds). Called a Qualified Charitable Distribution (or "QCD"), the amount of the gift was not included in the IRA owner's taxable income (and no charitable contribution deduction was allowed). Any funds directed to charity satisfied the individual's RMD for that year. As we noted in an announcement in November 2011, this provision of the tax code expired at the end of 2011.

The advantage of this strategy may not be readily apparent. Although you avoid income tax on the IRA distribution, you are not able to deduct the gift to charity. So, logically, you would think that you are in a breakeven situation, right? Not exactly. Without this special rule, unless you have significant income from other sources, your charitable deduction may be limited and you will pay tax at ordinary income tax rates on the difference. Even if you are able to fully deduct the gift, the benefit of personal exemptions and certain itemized deductions is reduced as income increases, and the taxability of social security depends upon an individual's income level. The combination of these factors could result in an individual's having to come out-of-pocket for a portion of the tax on the gift even though no cash was received.

Much to the relief of many individuals and charitable organizations, The American Taxpayer Relief Act reinstates this special rule. In fact, there are two provisions in the law that will permit some individuals to take advantage of it retroactively to 2012, if they act before February 1, 2013.

Funds directed from an IRA to charity after 12/31/2012 and before 2/1/2013 will be deemed to have been paid on December 31, 2012. This could allow an individual who missed or underpaid his or her RMD to remedy the omission and avoid the penalty for failure to take the appropriate RMD for the year.

Additionally, an individual who took the RMD in December of 2012 (but not before) and who transfers some or all of the distribution to a charity before 2/1/2013 can retroactively take advantage of the reinstatement. This would permit an individual who took the RMD late in 2012, does not have a need for the funds, and is charitably inclined, to avoid income tax on the distribution by transferring the funds to charity.

### **GSRP Can Help**

The QCD has been reinstated for 2013. And the American Taxpayer Relief Act of 2012 offers some a rare opportunity for retroactive tax planning, but only if you act before February 1, 2013. GSRP has extensive experience in income and estate tax planning and is ready to assist you or your clients in determining whether this strategy is appropriate for you.

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