Your IRA or 401(K) can make a difference at your favorite charity

By Stephen S. Brier

Individual retirement accounts (IRAs), 401(k) accounts, and similar tax-deferred retirement plans often provide the most tax-advantaged way to make a "bequest" to your favorite charities. Also, during 2009 people older than 70-1/2 can use their IRAs to make tax-free current gifts to charities. Using retirement plan assets to make charitable gifts can preserve assets accumulated over a lifetime; otherwise a large portion of the assets may be lost to taxes. Many people receive immense satisfaction from knowing that their savings will support their favorite charity instead of being taken by the IRS.

How Retirement Plans are Taxed

When any person (the account owner, his or her heirs, or any other beneficiary) receives a distribution from a retirement plan, the entire distribution is taxable to the recipient as ordinary income under federal and Oregon laws. For most people, either they or their heirs will, at some time, pay between 25% and 45% in combined federal and Oregon income taxes from the assets in their retirement plans.

In addition, when someone dies, the assets in the person's retirement plans are included in the person's estate. For some people, estate taxes will reduce their retirement plans by as much as 45%. Those people may lose as much as 75% of their retirement plan assets to income and estate taxes combined.

"Bequests" From Retirement Plans

If retirement assets are designated to a charitable organization as a beneficiary at death, the assets escape taxation entirely; the charity will make use of 100% of the assets designated. Therefore, if someone owns a retirement plan in addition to other assets, and if the person wants to provide for charities in addition to heirs, it is almost always preferable to designate retirement plan assets to charities.

Providing a "bequest" to a charity is simple because assets in a retirement plan are not governed by a will or living trust. Instead, a person designates beneficiaries of a retirement plan by signing a short beneficiary designation form provided by the plan administrator – typically the person's employer for a 401(k) or 403(b) account, or the bank or brokerage firm administering the person's IRA. Multiple beneficiaries are permitted, so retirement assets can be split among multiple charities and multiple heirs; the beneficiary designation form can spell out different percentages for each of the named beneficiaries.

Designating beneficiaries of a retirement plan requires only the completion of a short beneficiary designation form. There is no need to contact an attorney to revise a will or living trust. Also, beneficiary designation forms can be amended as often as desired while the account owner is alive.

<u>IRA Gifts in 2009</u>

Congress has passed legislation making it advantageous for almost everyone *older than 70-1/2* to make current gifts to charities from their IRAs in 2009. (Many people older than 59-1/2 also can make charitable gifts from IRAs, but these younger people need to carefully assess the tax consequences before making gifts using IRA assets.) This special legislation applies only to gifts from IRAs. However, it is possible to first rollover assets from a 401(k) account to an IRA and then use the IRA to make the charitable gift.

To take advantage of this special provision, donors must satisfy the following requirements: Funds must be transferred *directly by the IRA custodian to the charitable organization;* the donor must be 70-1/2 or older at the time of the transfer; the organization receiving the funds must be a qualified public charity (donor advised funds and many foundations and support organizations do <u>not</u> qualify); and the donor may not receive anything of value from the charity in connection with the gift. If these requirements are satisfied, amounts transferred during 2009 from IRAs to charities *up to an aggregate of $100,000* will be excluded from the donor's income for federal and Oregon income tax purposes.

Charitable giving via retirement plans can be a great idea for many people. Nevertheless, anyone considering either a bequest or a current gift from a retirement plan should consult their tax advisor and a development person at their favorite charity before proceeding.

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