Eaton Vance

Pooled Income Funds Potentially Offer Benefits Beyond New Law Expanding IRA Charitable Rollover

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A new law, which permits IRA owners to use Qualified Charitable Distributions (QCDs) to fund certain life-income charitable gifts, further complicates navigating the nuances of charitable giving.

Under provisions of the Legacy IRA Act included in an omnibus spending bill signed into law by President Biden in late December 2022, donors over age 70½ are now able to make a QCD in exchange for a charitable gift annuity (CGA) or to fund a charitable remainder trust (CRT).

This is a potential opportunity for donors looking to make a charitable contribution and receive a life income stream. But tax planning is nuanced, and such strategies may be worth a discussion with your financial and tax advisors. While pooled income funds (PIFs) are ineligible recipients under the new law, they may serve as a turnkey alternative that may potentially provide a higher after-tax distribution to income beneficiaries.

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It's essential to consider certain requirements that hinder the scope of this opportunity:

- A donor may take advantage of this provision in only one tax year during the donor's lifetime
- The CGA or CRT may be funded with only QCDs
- No person other than the donor or the donor's spouse may be an income beneficiary of the CGA or CRT
- All payments to income beneficiaries will be fully taxable as ordinary income
- In the case of a CGA, payments must begin no more than one year after the date of gift and must be at least 5% of the funding amount
- The aggregate lifetime cap of $50,000 per taxpayer counts toward the overall $100,000 annual limit per taxpayer applicable to QCDs

The provision introduced annual inflation adjustments for the new $50,000 limit and the $100,000 annual limit on QCDs used to make out right gifts, starting in 2024. We expect these limits to increase yearly for QCDs made in 2024 and beyond, based on the annual adjustments for inflation.

The provision raised the age at which IRA owners must begin taking required minimum distributions (RMDs) from 72 to 73 beginning in 2023, and to 75 beginning in 2033. Donors may still begin making QCDs after they turn 70½.

Bottom line:

While a PIF is not an eligible recipient of a QCD, it offers a lifetime income stream for a donor's chosen individual income beneficiaries, who may include individuals in addition to the donor and the donor's spouse. Tax constraints and contribution limits make the new law impractical for most people. A PIF therefore continues to be worth consideration for donors exploring life-income gifts.

[1] Consolidated Appropriations Act, 2023 or H.R. 2617, signed into law on December 29, 2022.

[2] Very generally, the so-called IRA charitable rollover permits individuals age 70½ and older to make QCDs up to $100,000 to charities directly from an IRA instead of taking their required minimum distributions. As a result, donors are not taxed on the distributions but also do not receive a charitable deduction for their distribution.

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