



Fixing the Donor-Advised Fund Exclusion in the IRA Charitable Rollover

Allowing donors to make a Qualified Charitable Distribution to their donor-advised fund would give seniors an additional giving tool and make it easier for donors to support multiple charitable organizations in their community.

Background

The Pension Protection Act (PPA) created the IRA Charitable Rollover, which allows a taxpayer over the age of 70½ to make a Qualified Charitable Distribution (QCD) to a 501(c)3 qualifying charity without counting the distribution as income, and without giving the donor a charitable deduction for their gift. This is an increasingly popular way for older donors with modest annual income but substantial retirement savings to support the charitable organizations they care about, because they can take a portion of their Required Minimum Distribution (RMD) and give it directly to charity. The QCD is limited to \$108,000 annually and does not allow gifts of complex assets because the contributions must be assets inside of an IRA.

However, current law does not allow donors to make a QCD to a donor-advised fund (DAF). This restriction has created an unnecessary obstacle for donors who want to simplify and coordinate their charitable giving by supporting multiple charities with a single gift. For example, whether a donor uses part of their RMD to give one \$30,000 gift or ten \$3,000 gifts is of no federal tax consequence – but current law makes it difficult to do the latter. This means the IRA Charitable Rollover is of limited use if a donor wants to make multiple smaller gifts, instead of one large one.

Every year, community foundations and other DAF sponsors must turn away donors who would like to direct a portion of their RMD to support multiple nonprofits. **Ultimately, the DAF exclusion restricts donor flexibility by (1) codifying a preference of some charities over others, and (2) making it difficult for donors to spread their QCD across several charities.**

Support Community Philanthropy

DAFs have become one of the most popular tools for donors to simplify and expand their charitable giving, with nearly 2 million DAF accounts nationally. With fewer older donors itemizing their deductions after the Tax Cuts and Jobs Act, it only makes sense that many older donors would like to make a QCD to a DAF because they do not have to itemize to take advantage of the provision.

Thus, removing the prohibition on DAFs will promote community philanthropy at a time when the charitable sector is being asked to do more – and it will allow QCDs to more closely align with donor intent. The revenue cost would be modest, yet it would create a positive charitable impact in communities across the country as funds flow to smaller charities. If this provision were fixed, donors could still direct their RMD to a single charity if they so choose – but it would be far easier to support multiple charities, if that is their intent. Donors could simply make one QCD gift and then advise the DAF sponsor on which charities they wish to support.

Legislative language to fix this problem is simple and straightforward.

Section 408(d)(8)(B) currently reads as follows:

(B) Qualified charitable distribution

For purposes of this paragraph, the term “qualified charitable distribution” means any distribution from an individual retirement plan (other than a plan described in subsection (k) or (p))—

(i) which is made directly by the trustee to an organization described in section 170(b)(1)(A) (other than any organization described in section 509(a)(3) or any fund or account described in section 4966(d)(2)), and

(ii) which is made on or after the date that the individual for whose benefit the plan is maintained has attained age 70½.

Simply deleting the highlighted language would allow millions of dollars to reach smaller charities in every Congressional district at a very modest revenue cost.