
Opportunity For Retroactive 2012 Gift From IRA To Charity

Gray Reed & McGraw Legal Alert

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Opportunity for Retroactive 2012 Gift from IRA to Charity: But You Must Act Before February 1, 2013

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The American Taxpayer Relief Act of 2012 (“TRA 2012”), passed by Congress and signed into law by the President on January 2, 2013, prevents many of the tax hikes that were scheduled to go into effect in 2013 and avoids the “fiscal cliff”. The TRA 2012 also retroactively extends the IRA Charitable Rollover which expired at the end of 2011.

Prior to its expiration at the end of 2011, the IRA Charitable Rollover allowed **individuals over age 70½** to directly transfer up to \$100,000 per year from an IRA account to one or more charities. This transfer counted toward the minimum required distribution rule for IRA accounts which provides that minimum annual distributions be made to the IRA account holder to assure that the IRA account is used for retirement rather than as a family tax shelter. The IRA Charitable Rollover allowed those individuals who were charitably inclined to avoid the recognition of income on their minimum required distributions.

The TRA 2012 retroactively extends the IRA Charitable Rollover provision through the end of 2013. In addition, since the 2012 tax year had already closed prior to the passing of TRA 2012, two special provisions were included to allow for 2012 gifts.

First, upon election by the individual, any qualified distributions made in January directly to charities from IRA accounts will be deemed to have been completed on December 31, 2012.

Second, individuals who took outright distributions from their IRA accounts in December 2012 can transfer up to \$100,000 of that amount to charities by the end of January 2013 (subject to the IRA rollover rules) and elect to treat it as a direct distribution to charity in 2012.

To qualify as an IRA Charitable Rollover, the distributions must be made to public charities and not to private foundations.

The provisions in TRA 2012 will once again allow individuals to transfer some of their assets to charity and avoid the IRA distribution being added to their adjusted gross income for the



year. Due to the increase in tax rates for individuals in the top income tax rate bracket also provided for in TRA 2012, the IRA Charitable Rollover provisions provide for an excellent planning opportunity.

For more information, please contact your tax attorney or contact Gray Reed attorneys [Norm Lofgren](#) or [Jennifer Gurevitz](#) at 214.954.4135 or go to www.grayreed.com.