Charitable Perk Expires

A Rule Allowing Donations From IRAs Will Likely Be Renewed—but Tread Carefully

By KELLY GREENE

Feb. 9, 2014 4:57 p.m. ET

Retirees are feeling déjà vu all over again.

On Dec. 31, a popular charitable-giving perk expired: It lets people who are at least 70½ years old donate as much as $100,000 a year from their individual retirement accounts to tax-qualified charities, count the donation as their required annual IRA distribution—and avoid reporting it as income or paying tax on that amount.

Journal Report

Insights from **The Experts**

Read more at **WSJ.com/WealthReport**

More in Wealth Management

- **Ten Ways People Leave Money on the Table**
- **Hot Collectible: Old PCs**
- **Investors Look for Board Diversity**
- **When Your Peer Is Your Banker**

Why the déjà vu? The perk has expired every year for the past few years and then been resurrected by Congress later. "Since 2006, there's never been a time it wasn't in effect, but it's always gone into effect retroactively," says Richard Fox, a partner at Philadelphia law firm Dilworth Paxson, where he heads the philanthropic and nonprofit practice. "Congress has left taxpayers in the dark."

If you're undecided, "maybe the best thing to do is to wait until there's more guidance," he says. If you're inclined to give, do it anyway, he says—just make sure you follow the rules that have applied in past years.

Here's what you need to know about donating an IRA distribution to charity—without tripping over tax rules.

How It Works

First things first. The charity that gets the donation has to be recognized as such by the Internal Revenue Service. Donor-advised funds and private foundations typically don't qualify.

Also, the gifts have to go directly from the IRA to the charity, using a "trustee to trustee" transfer. So, don't withdraw the money and put it in your bank account first. And don't have the check made out to you.

You also cannot make out your own check to the charity from your own bank account, and then take the same amount out of your IRA to pay yourself back, says Ed Slott, an IRA consultant in Rockville Centre, N.Y.

Think about it this way, he says: If you can cash the check from the IRA custodian yourself, you've failed at making a direct transfer. But you can get your IRA custodian to write a check to the charity that you can deliver yourself.

It's a good idea to ask the charity to provide a letter acknowledging the gift, the date of receipt, the amount and language specifying that it came from your IRA, says Natalie Choate, an estate-planning attorney with Nutter McClennen & Fish LLP in Boston. The letter also should specify there were no goods or services received in exchange for the donation, as with any other charitable gift of $250 or more, she says.

And make sure the letter is accurate. Alice Harms, an 85-year-old retiree in suburban Richmond, Va., likes to make IRA donations in late December—but has received letters from charities implying the donation was for the following year. After a dozen donations, "I got an acknowledgment with the right date on it from about five," she says.

The Tax Picture

When you file your tax return, keep in mind that a qualified charitable distribution is an exclusion from gross income. While you don't pay taxes on it, you also can't claim it as an itemized deduction. The tax exclusion can be a big benefit to retirees, because their adjusted gross income can affect their Medicare Part B premiums and taxability of Social Security benefits.

Retirees seeking a tax break may want to consider donating highly appreciated assets, Mr. Fox says. For instance, if you were required to withdraw $50,000 this year from your IRA, and you rolled it over to a charity, it would be excluded from your income. If you donated stock worth $50,000, you would get a $50,000 tax deduction. That could offset the $50,000 IRA distribution, likely making it tax free, while also allowing you to keep it.

Of course, "there is no reason you can't do both of these," Mr. Fox says, if you're feeling extra generous.

Ms. Greene is a staff reporter at The Wall Street Journal in New York. She can be reached at kelly.greene@wsj.com.