

The Secure 2.0 Act of 2022

A New Year, a New Law, and a New Option for Giving

In December 2022, Congress gave the American public a last-minute holiday gift when they passed the Consolidated Appropriations Act of 2023. Included within this enormous piece of legislation was the SECURE 2.0 Act, which contains numerous and much-anticipated retirement provisions. It also creates a new opportunity for those looking to use retirement assets to make charitable donations.

What does this new law mean for you? Let's look at some of the key provisions.

The Biggest Gift: A New Option for Giving from an IRA

Since 2006, IRA owners age 70½ and older have been able to make qualified charitable distributions (QCDs) from an IRA directly to a qualified charity. These distributions are free of tax (up to the \$100,000 annual aggregate limit) and count toward the donor's required minimum distribution (RMD) if one is due.

If you are an IRA owner age 70½ or older, SECURE 2.0 provides you with a new way to give using your retirement assets. Beginning in 2023, you can choose to make a one-time distribution of up to \$50,000 from your IRA to create a new charitable gift annuity (CGA) or charitable remainder trust (CRT). (The CRT can be either a charitable remainder unitrust or a charitable remainder annuity trust.) This unique version of a QCD also counts toward your RMD if one is due.

Beyond the tax benefits, this QCD option lets you create a new income stream. If you are married, both you and your spouse may contribute

\$50,000 each from your own IRAs into a single CRT or a joint-life CGA. However, the law does not allow payments (from the CGA or CRT) to anyone other than the IRA owner or the owner's spouse—not even their children.

The distribution must go directly from the IRA to a CGA or CRT that qualifies for an income tax charitable deduction under the current Internal Revenue Code—in other words, the CGA or CRT must pass the 10% minimum income tax charitable deduction test. In addition, the CRT must have a minimum payout rate of 5%, and in the case of a CRAT, the trust must pass the 5% probability test. The CGA must have a minimum 5% payout rate. Other requirements include the following:

- The QCD may not fund an existing CRT or a deferred payment CGA.
- A CGA funded by a QCD must be non-assignable.
- A CRT funded with a QCD cannot later receive other gifted assets.
- All payments from the CRT or CGA funded by the QCD are subject to tax at ordinary income tax rates. No part of the payments will be considered tax free or taxed as capital gains.

SECURE 2.0 also introduced inflation indexing for QCD limits. Beginning in 2024, both the \$100,000 annual aggregate limit on the traditional QCD and the \$50,000 limit on the new QCD will be indexed for inflation.

FACT SHEET

Items of Interest: Other Important Provisions of SECURE 2.0

An increase in the beginning age for RMDs. The age to begin taking RMDs from retirement plans is now 73 as of January 1, 2023 (up from 72). Another increase—to age 75—is scheduled for January 1, 2033.

An increase for IRA contribution limits.

Beginning in 2024, IRA contribution limits will be automatically indexed for inflation. In addition, starting in 2025, SECURE 2.0 raises the limit on catch-up contributions under retirement plans for individuals aged 60–63 to the greater of \$10,000 or 150% of the regular catch-up amount.

A new rollover option from a 529 account to a Roth IRA.

Starting in 2024, the law allows penalty-free, tax-free rollovers from a 529 account (a tax-advantaged educational savings account) to a Roth IRA under certain circumstances:

- The rollover is limited to \$35,000.
- Rollovers are subject to Roth IRA annual limits.
- The 529 account must have been open for at least 15 years.

The Icing on the Cake: New, Higher Charitable Gift Annuity Rates

In addition to the changes brought about by the new law, the American Council on Gift Annuities provided a gift of its own in the form of higher gift annuity rates beginning January 1, 2023. The increased rates present the opportunity to lock in higher fixed lifetime income payments for yourself and/or one other person (two people maximum). This is particularly attractive in light of the new QCD opportunity for creating a CGA using a one-time distribution from an IRA.

Sample one-life gift annuity rates, effective Jan 1, 2023

AGE	70	75	80	85	90
RATE	5.9%	6.6%	7.6%	8.7%	9.7%

Rates are subject to change.