

IRS Gives Guidance on QCDs for 2012 and 2013
excerpt from January 2013 Issue of Pension Digest

During the first week of January we sent subscribers an email explaining that the American Taxpayer Relief Act of 2012 (ATRA) as signed into law by President Obama on January 2, 2013, extended the QCD (*qualified charitable distributions*) provisions for 2012 and 2013. These provisions will not apply for 2014 and subsequent years unless there would be another tax extension.

The IRS has recently issued guidance to IRA accountholders and also IRA custodians regarding QCDs for 2012 and 2013. A qualified charitable distribution (QCD) is an otherwise taxable distribution from a traditional IRA, Roth IRA, or a SEP IRA or SIMPLE-IRA to which a current year contribution has not been made, to an IRA accountholder or an inheriting IRA beneficiary who is age 70½ or older that is paid directly to a qualified charity. A QCD for a year can be used to satisfy the RMD for such year. A qualifying individual who makes a QCD may exclude from his or her gross income up to \$100,000 for a year.

ATRA included two special transition rules to handle the situation that until ARTA was adopted retroactively an IRA accountholder was unable to make a QCD for 2012. Consequently, ATRA was written to include two special transition rules which allow an IRA accountholder or an inheriting beneficiary to make a QCD for 2012 in January of 2013.

Transition rule #1. An IRA accountholder who had taken a distribution which did not qualify as a QCD in December of 2012 could in January give cash to the charity of all or a portion of such IRA distribution and have it now qualify to be a QCD for 2012 provided that such contribution would have been a 2012 QCD if it had been paid directly to the charity from the IRA. Note that distributions made directly to the IRA accountholder from January 1, 2012 to November 30, 2012 will not qualify as a QCD for 2012. As discussed in prior newsletters, if the distribution had been made directly to the charity under the QCD rules, the distribution will qualify as a QCD if all of the other requirements had also been met.

Transition rule #2. By January 31, 2013, the IRA custodian pursuant to the instruction from the IRA accountholder that he or she still wants to make a QCD for 2012 pays the charity directly a 2013 distribution. It will qualify to be a QCD for 2012 provided that such contribution would have been a 2012 QCD if it had been paid in 2012.

A QCD made in January of 2013 that is treated as a 2012 QCD will satisfy an individual's RMD for 2012. This is true even if the individual would have otherwise owed the 50% tax for failing to take his or her RMD by December 31, 2012. The IRS has stated that a QCD made in January of 2013 must be for 2012 and cannot be designated 2013. This is true even if the individual had already satisfied his RMD for 2012. 2012 and 2013 Reporting Duties of the Individual

The individual is to report the total 2012 QCDs made in January 2013 on their 2012 Form 1040 by including the full amount of the 2012 QCDs (*even if in excess of \$100,000*) on line 15a and not including any amount on line 15b (*i.e. leave it blank*), but "QCD" must be written next to line 15b. For years 2006-2011, line 15b had been completed with 0 if the QCD was the same as the total distributions.

The individual will also report on the 2013 Form 1040 the amount of 2012 QCDs made in January 2013. The specifics as to how such reporting is to be made on the 2013 Form 1040 as will be discussed in the instructions for the 2013 Form 1040.

An IRA accountholder or an inherited IRA beneficiary who makes a QCD for 2012 in January of 2013 must keep the appropriate tax records to substantiate the timing of the distribution from the IRA and the contribution to the charity.

If a 2012 Form 8606 must be filed, the instructions to the form will describe how to report any 2012 QCD made in January of 2013. An IRA accountholder must file a 2012 Form 8606,

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nondeductible IRAs, with his or her 2012 Form 1040 if: the 2012 QCD was from a traditional IRA and there was basis and there had been a distribution in 2012 other than the 2012 QCD or the 2012 QCD was from a Roth IRA.

2012 and 2013 Reporting Duties of the IRA Custodian and RMD Calculation for 2013.

ATRA states that the QCD made in January of 2013 for 2012 is treated as if it had been made on December 31. Because of this, the IRS has stated that in determining the RMD for 2013, the 2012 QCD made in 2013 must be subtracted from the fair market value as of December 31, 2012. Where appropriate an IRA custodian will need to send a revised RMD notice.

The IRA custodian will report any distribution occurring in 2012 on the 2012 Form 1099-R. As for years 2006-2011, these distributions are reported as taxable even if they were QCDs.

Distributions made in 2013, including any 2012 QCDs made in January of 2013 are reported on the 2013 Form 1099-R in the same manner. Boxes 1 and 2a will be completed with the same amount and the individual must complete line 15b to show as non-taxable.

2013 QCD Rules and Procedures

The standard rules and procedures will apply in 2013 for 2013 QCDs made after January 31. The check from the IRA custodian or trustee will need to be issued to the charity and the check must have a date of December 31, 2013, or earlier.

Any bets if it will be extended for 2014 and 2015?