

# QCDs AND THE ABSOLUTE NECESSITY FOR A CWA

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Qualified Charitable Distributions (QCDs) are a common transaction these days, but all guidelines must be followed to ensure the QCD is valid. Recent court cases have exposed the absolute necessity to adhere to the rules...or the donation could be disallowed.

For IRA owners who are age 70 ½ and older, donations paid directly from an IRA to an eligible charity may be excluded from income. Using QCDs to offset all or a portion of a required minimum distribution (RMD) is incredibly popular. Up to \$100,000 annually can be sent to charity via QCD, and this is in addition to the standard deduction. However, there can be no benefit back to the taxpayer. No goods or services, other than an intangible religious benefit, can be received in exchange for the contribution. This language is important.

Regarding itemized charitable deductions, historically taxpayers have been “a little loose” with their details. Overstatements and fabrications were (and are probably still) rampant. Deductions were taken for more than what was donated, and for donations that never even occurred. To curb abuse, Congress passed strict laws governing the reporting of charitable contributions. These rules cover both cash and non-cash donations. How much was given? What was the fair market value of the item? What was the taxpayer’s cost basis on that item? On and on the rules go.

Not surprisingly, most donations need to be documented with some sort of receipt. Officially, this is called a “contemporaneous written acknowledgement” (CWA), and it is applicable to all contributions of \$250 or more. Ultimately, when a QCD is done, the necessary documentation needed for a tax return includes the amount of the donation, the date of the donation, the name of the charity, and whether the charity provided any goods or services for the donation. (Remember, no goods or

services, other than an intangible religious benefit, can be received in exchange for the contribution.)

Since QCDs are typically sent directly from the custodian to the charity, verifying the date, amount and to whom the dollars were sent should be easy. The tricky part is getting the proper receipt from the charity. Even if no goods or services were received, the CWA cannot remain silent on this issue. It must state that nothing was transferred back to the donor. And if the language about “no goods or services being received” is missing, the entire donation could be disallowed.

In one particular court case, all parties agreed that a donation was made. However, the “no goods or services received” language was missing from the CWA. Despite the obvious donation, the judge’s hands were tied. Based on the strict laws, the charitable deduction was denied. Additionally, there is no retroactive fix. Why? Because the CWA must be obtained by the taxpayer on or before the earlier of the date on which the taxpayer files a return, or the due date (including extensions) for filing the return. Creating and sending the proper documentation after the fact is of no help. (Note that while this court case involved an itemized charitable deduction, the same CWA rules apply to QCDs.)

Please be careful. It is imperative that QCD and general charitable donation rules are acknowledged and firmly adhered to. Otherwise, simple acts of kindness and giving can be ruined and tax benefits lost.

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