

Charitable Gift Annuity (CGA) and SECURE 2.0 - QCD to split-interest entity

The Charitable Gift Annuity (CGA) is an old concept, with the first CGA programs taking hold in the 1920's [1]. Since then, the CGA has been a useful planning technique utilized by charitably inclined individuals that have a current income need. However, there has been quite a bit more 'buzz' about CGAs in the past few months, thanks to a provision in the SECURE Act 2.0 that allows a one-time Qualified Charitable Distribution (QCD) to be used to fund a split-interest entity such as a CGA. Of course, there are details, nuances, and caveats with this new opportunity. Before we dive into the details, let's take a step back to look at the concept of CGAs.

What is a Charitable Gift Annuity?

Simply put, a CGA is a *private annuity* between a **donor** and a **qualified public charity**. The donor makes a one-time irrevocable donation to a qualified charity of their choice. The charity then provides the donor with an *unsecured promise* to pay a fixed income stream for the life of the annuitant (most commonly the donor, or donor and spouse). Upon the death of the last annuitant, the charity keeps the remainder of the funds.

The initial donation is typically made with cash, appreciated securities and other highly appreciated assets. The charity receives immediate access to the donation and controls the administration and investment of the donated funds. Donors who itemize deductions can claim a charitable contribution income tax deduction based on the present value of the amount that will ultimately be retained by the charity. To the extent that the deduction is not used in the year of donation, the deduction may be carried forward for up to five years. [2]

In the past, IRA assets would not typically be used to fund a CGA during the donor's lifetime because the donor would be required to liquidate their IRA and contribute after-tax dollars to the CGA. As of 2023, eligible donors are now permitted to fund a CGA via qualified charitable distribution (QCD) from IRA assets – *subject to specific guidelines that are discussed in more detail below.*



The charity determines the CGA lifetime income payout based on actuarial factors and state-specific guidelines. Many charities reference the American Council on Gift Annuity's model rates and target a retention of 20-50% of the original gift contribution amount upon termination of the annuity [3]. Donors should contact the planned giving department of the charity for more information on payouts and rates.

The CGA income will be taxable to the annuitant for the tax year received but may be partially tax-free depending on how the CGA was funded.

- If the CGA is funded with cash, part of the income payment will be taxed as ordinary income, and part will be tax-free. [4]
- If the CGA is funded with long-term capital assets (appreciated securities or real estate), a portion of the income payment will be taxed as ordinary income, a portion will be taxed capital gain, and part may be tax-free. [4]
- If funded with IRA dollars through a QCD, the entirety of the income payment will be taxed as ordinary income. [5]

What else to keep in mind:

Each state has specific regulations and standards around how a CGA may be issued in that state. State guidelines may specify that the charity meet minimum asset thresholds or a minimum number of years of operation; may limit investments and specify reporting obligations; and may limit how rates are calculated. A *charity* cannot simply purchase a commercial annuity and have it qualify as a CGA. In addition, a *donor* cannot simply purchase a commercial annuity and have it qualify as a CGA.

At the *charity's* discretion, it may be possible for the *charity* to reinsure its CGA income obligation by purchasing a commercial single premium immediate annuity (SPIA); however, there may be state specific restrictions that limit the use of a commercial annuity in this capacity and the SPIA payment would need to align with the initial quote calculated by the charity. For those SPIA carriers that can accommodate the reinsurance of a CGA program, the charity may be required to serve as the annuity's *payee*; and the annuity carrier will not handle any of the administration or tax reporting for the charity's CGA program.



Many large charities, universities and other nonprofit organizations offer CGA programs. For an organization that is interested in establishing a charitable gift annuity program, it would be imperative that they defer to their legal counsel for guidance on the subject.

SECURE Act 2.0 – QCD to split-interest entity

With the passage of SECURE Act 2.0 in December of 2022, a provision effective in 2023 allows taxpayers the opportunity to send up to the specified lifetime maximum amount (\$50,000 for 2023; inflation indexed to \$53,000 for 2024) as a Qualified Charitable Distribution (QCD) to fund a split-interest entity [6]. This one-time election may accommodate multiple transactions for an aggregate total up to the lifetime maximum (\$50,000 in 2023, \$53,000 in 2024), but all transactions would need to be completed for a single tax year. While it is possible to make a QCD to a Charitable Remainder Trust (CRT), the associated expense and administration of a CRT make this split-interest entity less attractive for this specific technique. In comparison, a CGA is relatively easy for a donor to establish and fund, with the administration being facilitated by the charity.

Normal QCD guidelines apply – meaning that the taxpayer must be eligible to make a QCD (attained age 70.5) and the IRA custodian must send the QCD funds directly to the charity (donor cannot take constructive receipt). A properly executed QCD excludes the IRA distribution from the donor's taxable income and would count toward their annual RMD obligation (for those taxpayers of RMD age). Additional information on the topic of [Qualified Charitable Distributions \(QCDs\)](#) is available on the AE Daily Business Resources (DBR) website.

Also note - there is no itemized charitable deduction associated with making a QCD to a CGA, because the QCD is not an income-taxable distribution from the IRA. The lifetime income provided by a CGA funded via a QCD may only be made to the donor or their spouse.



Planning Considerations

A CGA may be a useful income planning tool for those who are charitably inclined and for those that can benefit from either the itemized deduction for the charitable donation or benefits associated with making a QCD from an IRA. If the CGA is funded via QCD from an IRA, it not only covers the donor's RMD obligation for the year and reduces their IRA balance – this technique may allow for additional income planning around AGI and IRMAA (if needed).

A CGA offers stable income for life. However, the income stream is subject to the charity's ability to continue payments, and inflation may erode the purchasing power of future payments.

Another CGA funding technique would be to leave IRA dollars to a Testamentary CGA as beneficiary – which could benefit the donor's spouse, kids or grandkids as annuitant/income beneficiary.

Summary

While Charitable Gift Annuities are not a new concept, there has been a recent spike in interest due to a new provision introduced by SECURE Act 2.0. While CGAs are not commercial annuities, the new opportunity to fund a split-interest entity with a QCD (reducing their IRA balance, making a charitable donation, and receiving a lifetime income stream) may very well have a place in your clients' plans.

Sources

1. [National Association of Charitable Gift Planners – Charitable Gift Planning in America](#)
2. [26 U.S. Code § 170 - Charitable, etc., contributions and gifts](#)
3. [American Council on Gift Annuities – Gift Annuity Rates FAQs](#)
4. [American Council on Gift Annuities – Donor Guide to Gift Annuities](#)
5. [Kitces – SECURE Act 2.0: Later RMDs, 529-to-Roth Rollovers, And other Tax Planning Opportunities](#)
6. [H.R. 2617 – Consolidated Appropriations Act, 2023 – Sec 307](#)

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