Harvey Kimmel has marked his calendar for Nov. 2. That’s the day on which he turns 70½. More importantly, he says, it’s when he becomes eligible to contribute part of his IRA to charity. He plans to donate $100,000 of it to the Philadelphia Zoo this year.
In the process, he will take advantage of the so-called IRA charitable rollover – an on again, off-again rule, first introduced in 2006. The provision last expired at the end of 2011. As part of the fiscal cliff deal enacted late last year, Congress extended it through 2013.

Were it not for the charitable rollover, this would be the first year for which Kimmel, a retired turnaround specialist who has rolled over various 401(k) accounts into an IRA now worth about $1 million, would need to start taking yearly required minimum distributions.

Unless an IRA is a Roth, the account owner must take these distributions starting at age 70½ and pay tax on the withdrawals. (See “Four IRA Deadlines Every Smart Investor (Or Advisor) Should Know.”) With the charitable IRA rollover, the donation, of up to $100,000, can count towards the minimum required distribution an owner would otherwise be required to take.

Donating IRA assets to charity has a number of tax advantages. Charities, unlike individual beneficiaries, do not need to pay income tax on withdrawals from these accounts. And while there is no income tax deduction for a donor’s contributions, the sum going to charity is not included in his or her adjusted gross income or AGI. Unlike other donations, these are not subject to percentage limitations on charitable deductions. Plus, donating these assets, rather than taking minimum required distributions, may also enable older donors to avoid certain penalties that come with a higher AGI, such as higher Medicare premiums.

Sophisticated donors appreciate the tax efficiency of this giving tool. “I’m the kind of person who looks for the simplest, easiest and least aggravating solution,” says Kimmel, a patron of the arts in Philadelphia who gives money to about 30 different organizations. For example, through the Cultural Alliance of Greater Philadelphia, he and his wife, Virginia, 69, recently set up a program to provide high school children free access to 12 of the city’s best museums.
The Dollars And Sense Of Giving IRA Assets To Charity

For this gift and many others, he has donated appreciated stock – a strategy that enables him to take a charitable deduction for the fair market of the stock and avoid the capital gains tax that he would pay if, for example, if he had sold the shares and donated the proceeds to charity.

With the IRA, he will ask his broker to sell the stock to raise cash for his donation. Since this will occur inside the IRA wrapper, he won’t have to pay capital gains tax. If Congress extends the charitable IRA rollover, Kimmel plans to make another similar gift early next year, and count it towards his 2014 minimum required distribution.

It’s also possible to make gifts of up to $100,000 from an IRA without using it to satisfy the mandatory annual payout. So if you’ve already taken your required payout for 2013, you can still give IRA assets to charity — you just can’t count it towards the mandatory withdrawal.

The University of Michigan, which actively promotes this giving tool to its donors, has raised $19.8 million through IRA charitable rollovers since they were first permitted in 2006, says Shari M. Fox, assistant vice president for development at the University. A total of 790 donors have contributed this way, with gifts ranging from a few hundred dollars to the $100,000 maximum. The best year for this type of gift was 2007 – the year before the financial crisis began – which was also towards the end of a multiyear University of Michigan fundraising campaign. In that year alone, 521 donors made lifetime gifts of IRA assets, totaling $6.4 million.

One hurdle for charities is convincing donors to use these assets, rather than others, to make gifts. The IRA charitable rollover is clearly a giving tool appropriate only for those who don’t need the money during retirement. And for people who have socked away funds in what they consider to be a nest egg for themselves or their heirs, suddenly giving those assets to charity requires a new mindset. Some donors also have trouble understanding the benefit of a giving tool that does not result in a charitable income tax deduction, as this one doesn’t, Fox says.

Limited opportunity?

As in past years when the law allowing charitable IRA rollovers was scheduled to expire, charities are sending urgent messages to their donors.

“Hurry! Existing legislation expires on December 31, 2013,” reads an Oct. 15 newsflash that the Free Library of Philadelphia Foundation sent to its database of 85,000 library users. So far they’ve received one $10,000 gift, and have another in the works for an unspecified amount, says Amanda Goldstein, director of the library’s Major Gifts & Planned Giving program, started two years ago.

“I don’t know if this is the last chance ever or for a long time,” says Conrad Teitell, a lawyer with Cummings & Lockwood in Stamford, CT, and a key proponent of the rollover. Though the provision has been extended retroactively since 2006 each time it expired, Sen. Max Baucus (D-MT), chairman of the Senate Finance Committee, said recently that this year there will be no extenders and that each tax break will be considered on a case-by-case basis as part of overall tax reform (whatever that means).

Regardless of what happens with the IRA charitable rollover, it will still be possible to save taxes and benefit charity by donating an IRA through an estate plan. The way to do that is to name a charity on the beneficiary designation form given to the IRA administrator. Since money in a retirement account passes outside of a person’s will, it’s necessary to spell out your
wishes on this form. The options include making the charity a 100% beneficiary of the IRA, or indicating that the charity is a beneficiary of a certain percentage of the IRA and that the rest should go to individual beneficiaries.

**Pitfalls and protocols**

Since charitable IRA rollovers are lifetime transfers, different protocols apply. Instead of taking money out of an IRA, the owner must ask the custodian of the account to send a certain sum directly to charity. The donor must not have the funds in his or her possession “even for a nano second,” Teitell says. And the money must arrive by midnight on Dec. 31. So it’s important to get this in motion soon, rather than waiting until the very end of the year.

IRA funds donated this way can go to any organization to which you can make a gift that would qualify as a charitable deduction on your tax return. One thing you cannot do is use the funds for contributions to donor-advised funds, supporting organizations or private non-operating foundations. But this rule doesn’t prevent donors from giving IRA assets during life to a community foundation’s designated field of interest fund or its endowment, Teitell notes. For example, Kimmel, who supports the Philadelphia Foundation, could not donate his IRA to his donor advised fund there, but could make a lifetime gift of IRA assets to the organization’s endowment.

For their tax records, donors need a receipt from the charity acknowledging the gift and indicating that no goods or services were received in exchange for it – not even a celebratory rubber chicken dinner, Teitell warns. If your tax return is audited, you will be glad to have this documentation.

Though you can’t take a tax deduction for this gift, it’s important to report it properly to the Internal Revenue Service so you don’t get taxed on the withdrawal. By Jan. 31 the financial institution must send you IRS Form 1099R, reporting the distribution. It appears on this form with the code number 7, just like any other IRA distribution, says Barry C. Picker, a CPA with Picker & Auerbach in Brooklyn, NY.

It’s up to you to tell the IRS how much of the distribution went to charity — what tax geeks call a “qualified charitable distribution.” Here’s how Picker recommends you do that: On Form 1040, the tax return that is due April 15, report the total amount withdrawn from the IRA (the amount that appears on Form 1099R) on line 15a (labeled “IRA distributions”). Then indicate on line 15b how much of that is taxable, and put the letters “QCD” in the left margin. If it all went to charity, the taxable amount will be zero; otherwise you subtract the amount donated, from the amount on line 15a, and enter the difference on line 15b.

Unless you are audited, there is no way for the IRS to check your math or your moral compass. Nor is there anything for the IRA custodian to do besides issue the 1099-R. That’s good news, Picker notes, since it also means “the custodian can’t mess it up.”

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