

## **SECURE 2.0 Act of 2022**

### **Summary and Frequently Asked Questions**

On December 29, 2022, President Biden signed into law the Consolidated Appropriations Act, 2023, an omnibus legislative package that includes all appropriations for the federal 2023 fiscal year with an effective date of January 1, 2023. Included is the long-awaited SECURE 2.0 Act of 2022 (the Act or SECURE 2.0) which provides that the \$100,000 maximum amount one can use to make a qualified charitable distribution (QCD) gift will be indexed for inflation each year starting in 2024. The Act makes significant changes to the retirement savings landscape designed to improve access to workplace retirement plans and retirement savings rates. SECURE 2.0 also created new possibilities for funding charitable life income gifts (referred to in the Act as “split interest gifts”) using one’s QCD which is available for those who have traditional Individual Retirement Accounts (IRA). The Act allows for a one-time election of the IRA owner to direct a qualified charitable distribution (QCD) of up to \$50,000 from their IRA directly to a new charitable remainder trust (CRT) or charitable gift annuity (CGA). The Act authorizes the IRA QCD maximum amount of \$50,000 for life income gifts limit to be adjusted annually for inflation starting in 2024. There are several limitations to this new benefit. The following are some FAQs about the new legislation.

**Q: Are there age requirements for a donor to be able to take advantage of the IRA QCD to fund an outright gift or a charitable remainder trust (CRT) or charitable gift annuity (CGA)?**

A: Yes. The donor must be at least 70 ½ years of age to make an QCD distribution from their IRA.

**Q: Can a donor use their annual IRA QCD to fund a CRT or CGA each year?**

A: No. SECURE 2.0 provides a one-time election for an IRA owner to use up to \$50,000 of their QCD in calendar year 2023 to establish a new CRT or CGA - and the action to do so must take place in one tax year only. After calendar year 2023, the QCD maximum amount will be adjusted for inflation each year. For calendar year 2024, the QCD amount to fund a new CRT or CGA is \$53,000. Under the provisions of the present law, there is no ability for a person to contribute additional amounts from their IRA, or any other source, to the CRT established with funding from a QCD in future years, nor can they add funds from the IRA to a CRT that was established previously and funded with other assets. This opportunity is a “one-time” election so a person cannot direct funds from an IRA in future years to fund another CRT or CGA. The QCD maximum amount to fund a CRT or CGA per IRA owner cap is a lifetime limitation on the funding coming from their IRA(s). If a CGA is established with a QCD gift of less than the authorized QCD maximum amount, the IRA owner may establish other CGAs using their QCD in the same tax year provided they do not exceed the capped amount. If they do not use the full amount, they will not be able to apply the unused amount in another tax year (i.e., no carryover of unused QCD cap).

**Q: Are there restrictions on who may be beneficiaries of the CRT or annuitants of the CGA?**

A: Yes. Only the IRA owner and/or the owner’s spouse are permitted beneficiaries/annuitants of a QCD-funded CRT or CGA. Donors may fund only immediate payment CGAs. The QCD cannot fund a deferred-payment gift annuity. The income interest in the CRT and/or the annuity stream in the CGA is non-assignable, and the payout rate must be at least 5%. The existing outright gift QCD rules that prohibit gifts to donor advised funds and supporting organizations also restrict the use of QCDs to establish CRTs and CGAs at those organizations.

**Q: Is the donor allowed an income tax deduction for making the gift?**

A: No. However, the QCD amount used to fund a CGA or CRT counts toward the donor’s required minimum distribution (RMD) from IRAs for that year. Directing a QCD from an IRA to a qualifying CRT or CGA under this new provision will not result in immediate income recognition for the donor. Rather,

they and/or their spouse will be taxed on the distributions from the life income gift as they are made over their lifetime(s). Note that the tax benefit of using the QCD and not having to take the RMD into gross income is available to all donors, not just those who itemize their charitable deductions.

**Q: How will the payments from the CRT or CGA be taxed to the income recipients?**

A: 100% of the annual payments from the CRT or CGA are fully taxed as ordinary income to the beneficiaries or annuitants. The payments must be reported on either Schedule K-1 (CRT) or 1099-R (CGA).

**Q: What is the RMD age?**

A: Immediately prior to SECURE 2.0, the RMD age was 72. SECURE 2.0 raises the age at which the owner of an IRA or other qualified retirement plan must start taking RMDs, increasing from age 72 to 73 for individuals who turn 72 after December 31, 2022, and turn 73 before January 1, 2033. The initial RMD age will further increase to age 75 in 2033.

**Q. Does the increase in the RMD age affect the age for making a QCD?**

A: No. SECURE 2.0 did not change the QCD age. It remains at age 70 ½.

**Q: Are there other provisions of Secure 2.0 that are attractive for charitable giving purposes?**

A: Yes. SECURE 2.0 adjusts the \$100,000 annual limit on an IRA owner's outright QCDs for inflation beginning in 2024. As of calendar year 2024, the maximum amount for outright QCD gifts is \$105,000. The Act also adjusts the \$50,000 one-time QCD ceiling to fund CRTs and CGAs annually for inflation for those who make their one-time election in a future year. The inflation adjusted amount for QCD-funded CGAs or CRTs is \$53,000 starting in calendar year 2024.

**Q: Why might a donor want to fund a CGA with a QCD from their IRA?**

A: There may be donors who are philanthropically inclined and would like to use their QCD for charitable purposes but are concerned about their retirement income. Funding a CGA using a QCD from an IRA is one way to accomplish charitable intent while also providing a stream of fixed income payments for their lifetimes backed by Bowdoin College.

**Q. What are the best reasons for using the one-time QCD election to fund a CGA?**

A: A QCD-funded CGA allows donors to spread the income tax liability otherwise incurred from their RMD over their life expectancy rather than taking their RMD and paying income tax on it in the year of the withdrawal. Also, IRA RMDs are calculated annually, resulting in variable annual income for IRA owners. Converting a portion of IRA assets to a CGA provides fixed annual income, an attractive option for donors who want a more secure stream of income during retirement.

**Q. How can I stay informed about the inflation adjusted amount of the IRA QCD each year?**

Contact Bowdoin's Office of Gift Planning by emailing [giftplanning@bowdoin.edu](mailto:giftplanning@bowdoin.edu) or calling 207-725-3172. Additionally, you can visit [bowdo.in/giving-methods](http://bowdo.in/giving-methods) to verify the latest information about the IRA QCD giving method.

**Q. Does Bowdoin College have a minimum amount for establishing a CGA or CRT?**

A. Yes. The minimum amount for a CGA is \$10,000 and \$100,000 for a CRT. An IRA owner and an IRA owner spouse can establish a QCD-funded CRT using each of their QCD limit.

*We will be keeping an eye out for legislation that could expand SECURE 2.0's provisions. SECURE 2.0 may be just the beginning.*