Folks:

Take-Away: While making qualified charitable contributions (QCDs) has become a highly popular way to carry out charitable giving objectives while at the same time reducing taxable required minimum distributions (RMDs), not to be forgotten are the *aggregation/offset* QCD limitations.

Background: In one respect, deductible IRA contributions and qualified charitable distributions (QCD) don't mix. The SECURE Act of 2019 allowed deductible contributions to an IRA by its owner who is over age 70 ½ and who is still working with earned income. However, to prevent *double dipping* by permitting an older worker to have the opportunity to continue to make deductible contributions to an IRA while at the same time making QCDs, the SECURE Act also provides that deductible IRA contributions after age 70 ½ will reduce any future QCDs by that IRA owner.

Example: Claude, age 75, continues to work. In 2023 Claude's modified gross income was $60,000. Claude contributed $7,500 to his traditional IRA [$6,500 maximum + the $1,000 catch-up contribution] in 2023. Thus, Claude's $7,500 contribution to his traditional IRA was fully deductible by him. However, Claude also has a required minimum distribution (RMD) obligation for 2023. Assume that Claude's RMD obligation for 2023 is $10,000. Claude sends a QCD check (from his IRA custodian) to his church for $10,000 in 2023. Consequently, Claude does not expect to report any taxable income from his RMD for 2023. 'Not so fast' says Claude's CPA, who tells him that he still must report the full $10,000 in his taxable income for 2023, even though the entire RMD amount was paid directly to Claude's church. Why? Under the SECURE Act, all deductible IRA contributions after age 70 ½ must be *aggregated* and used to *offset* future QCDs.

- On listening to his CPA, Claude initially thinks that his $7,500 IRA

deduction for 2023 will reduce, or *offset,* his QCD by $7,500, which means that there will still be $2,500 (of the $10,000 RMD distribution) from the QCD that is not taxed. Unfortunately, Claude is in error, due to the *aggregation* rule.

- Claude also made $7,000 deductible IRA contributions in 2020, 2021, and 2022, for a total of $21,000. With Claude's 2023 contribution of $7,500 to his traditional IRA in 2023, that brings the total of his (after age 70 ½) *aggregate* IRA deductible contributions to $28,500. Even after Claude's 2023 contribution of his $10,000 QCD to his church, there is still $18,500 of total deductible IRA contributions since he turned 70 ½ to offset future QCDs. In short, it could take several years before Claude does not have to report as taxable income his QCDs for a year. Only when Claude's QCDs exceed his deductible IRA contributions after he attained age 70 ½ will the excess QCD be excluded from his reported income for the year.

Dealing with the *Double Dip* Prohibition: Most of the 'solutions' to work around this limitation are not particularly practical.

- **Itemize Deductions:** Depending on the IRA owner's reported income level and other available tax deductions [e.g., SALT], it might be better to take the RMD and report it as taxable income, and then use the same amount as a contribution to charity as part of claiming itemized deductions. If the reported income for the year (AGI) limits the amount of the charitable deduction that can be claimed, the excess charitable deduction can be carried over for the next five years.

- **Roth Contributions:** Rather than make a deductible contribution to a traditional IRA, the working senior could contribute to a Roth IRA. That contribution to the Roth IRA could be as high as $8,000 in 2024, so long as the IRA owner meets the income requirements for 2024- in 2024, a single filer with modified adjusted gross income (MAGI) of less than $146,000 can make a full Roth IRA contribution. While the Roth contribution will not deliver an upfront income tax deduction, it offers the potential for future tax-free distributions of investment gains, possibly in the future reducing

the individual's exposure to higher Medicare premiums. In short, a Roth IRA contribution will not interfere with the favorable tax treatment of a QCD to offset part, or all, of the individual's RMD for the year.

- **SEP or SIMPLE Plans:** If the individual can make a QCD, i.e., he/she is over the age 70 ½, he/she may be able to make deductible contributions to a SEP IRA or SIMPLE IRA, on a tax-deferred basis, and those deductible contributions will not interfere with the contributor's ability to use QCDs to meet his/her RMD obligation for the year.

- **401(k) Contributions:** If the still working individual can participate in an employer's 401(k) or other tax qualified plan, or perhaps a *solo 401(k) plan,* the tax deferred contributions to that qualified plan will not prevent the plan participant from moving money from the plan to a traditional IRA and then making QCDs from that traditional IRA.

- **Separate Spouses:** The key is that these *offset/aggregation* QCD rules apply to individuals, not to married couples. Accordingly, one spouse might make a tax-deduction contribution to a traditional IRA, while the other spouse sends money from their traditional IRA to a qualified charity as part of a QCD. For the IRA contribution, at least one spouse must have earned income, and the deductible IRA contribution cannot exceed the amount earned.

Conclusion: The *offset/aggregation* limitations about qualified charitable distributions are sometimes overlooked. Making QCDs should be encouraged, but only if the limitations arising from past deductible IRA contributions is factored into the decision.