



# ED SLOTT'S IRA ADVISOR

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## TAX & ESTATE PLANNING FOR YOUR RETIREMENT SAVINGS

### Retirement Plan Provisions in the PATH Act Q and A

In December of 2015, Congress passed the PATH Act (Protecting Americans from Tax Hikes), making a number of changes to retirement accounts. In the weeks since, many advisors have been asking questions to clarify their understanding of some of the key changes in order to make sure they are properly guiding their clients. Here are some of the most common questions being asked, along with the answers.

#### Qualified Charitable Distributions

**Key Change** - As part of the PATH Act, qualified charitable distributions (QCDs) were made a permanent fixture of the law.

**Question:** My client took their 2015 RMD (required minimum distribution) in 2015 before the PATH Act was passed. If they gave that amount to charity, is there any way to recharacterize that distribution as a QCD?

**Answer:** No. There is no action that can be taken to retroactively treat

a "regular" distribution (a distribution payable to a client) as a QCD. If the distribution had gone directly to the charity, or had been a check payable to the charity to begin with, it *would* have qualified as a QCD after the passing of the PATH Act, as the law reinstated the QCD provision retroactive to the beginning of 2015.

**Question:** The PATH Act was passed so late in the year. Is there any way to make a QCD in 2016 and treat it as a 2015 QCD?

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**Answer:** No. Although there was some hope that such a provision would be included in the law (as it was when the QCD was retroactively restored as part of the American Taxpayer Relief Act of 2012), the PATH Act did not include a provision allowing QCDs to be made in 2016 and treated as though they were made in a previous year. If a client failed to take their RMD by the end of 2015, they are subject to the 50% penalty for a missed RMD.

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