



COUNCIL FOR ADVANCEMENT
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IRA Rollover Provision: New Law Provides Incentive for Charitable Distributions of IRA Assets

The IRA rollover provision signed into law Aug. 17, 2006, provides tax incentives for donors age 70½ or older to contribute IRA (individual retirement account) assets to educational institutions and other nonprofits. Prospective donors are likely to have a lot of questions about the IRA rollover as they make year-end decisions about IRA withdrawals and charitable giving. Advancement professionals need to be prepared to educate their donors about this new giving opportunity and answer their questions.

*The following overview of the IRA rollover provision is designed to provide advancement professionals with a general understanding of the new law and should not be construed as legal, accounting, tax or other professional advice.

The IRA rollover provision, approved as part of the Pension Protection Act of 2006 has been a top CASE legislative priority. The Federal Reserve estimates that more than \$3 trillion is held in IRA accounts, and the new rules represent a valuable opportunity for charities as well as their donors. Unlike previous versions of the IRA rollover that failed to make it into law, the current legislation: 1) caps qualified charitable IRA distributions at \$100,000 per person

per year, 2) precludes the funding of gift annuities and similar life income plans, and 3) applies only to donors age 70½ or older.

Prior to passage of the Pension Protection Act, individuals who wanted to make charitable contributions of traditional IRA assets could suffer negative tax consequences. Even if funds were transferred directly to a public charity, the donor still had to report them as ordinary income taxable at regular rates. Donors may have been able to offset the increase in taxable income in part by claiming charitable deductions. This, however, posed several problems for would-be donors: donors can only claim charitable deductions equal to 50 percent of their income in a given year; the value of possible itemized deductions could be further reduced by limits on itemized deductions for higher-income taxpayers; and increases in federal adjusted gross income could increase state tax liabilities and in some cases cause more for their social security income to be taxed.

The IRA rollover provision now allows donors age 70½ or older to exclude from adjusted gross income the amount of “qualified charitable distributions” up to \$100,000 per year from regular or Roth IRAs. The provision expires Dec.31, 2007.

How Does This Work?

1. The donor requests his or her IRA plan administrator to transfer funds to a charitable organization (donor-advised funds, supporting

organizations, and private foundations are not included under the provisions—see note below).

2. The IRA administrator transfers funds directly to the charity.

3. This “qualified charitable distribution” is excluded from the donor’s adjusted gross income.

Benefits of the IRA Rollover:

- Qualified charitable distributions are excluded from the donor’s adjusted gross income. Note: IRAs may be funded with pre- or post-tax dollars, and assets distributed from IRAs may, accordingly, be taxable or nontaxable. Only IRA distributions that would be included as taxable income if withdrawn by the account holder count as “qualified charitable distributions” and can be excluded from income. If donors choose to distribute nontaxable IRA funds to a charity, they may still be able to claim a charitable tax deduction for the amount of the gift. Prospective donors should consult with tax advisors before making any charitable distributions from IRAs.
- IRA account holders over age 70½ are subject to required distribution rules. Qualified charitable distributions from IRA accounts count toward the owner’s required minimum distributions.
- “Qualified charitable distributions” (i.e., charitable rollovers of funds which can be excluded from a donor’s income) are not included as part of the donor’s maximum allowable charitable tax deductions. This means that IRA rollover gifts do not count toward 50% of their adjusted gross income limitation on charitable gifts of cash.
- Required IRA distributions may increase an

individual's adjusted gross income and increase the percentage of Social Security payments on which he or she has to pay tax. By choosing to make a charitable distribution with all or part of their required IRA distribution, donors may reduce income and reduce the percentage of social security subject to taxation.

- The IRA rollover allows donors who do not itemize deductions to contribute IRA assets to charities and enjoy tax benefits similar to those derived from claiming itemized charitable deductions.
- Taxpayers in states that do not allow itemized deductions and follow federal income inclusion rules may realize state tax benefits by making charitable qualified distributions from their IRAs.

Points to Bear in Mind:

- Qualified charitable distributions cannot be paid to account holders. Distribution checks must be payable directly to the charity to be excluded from donor income.
- IRA rollovers cannot be used to fund split interest or life income gifts such as charitable gift annuities.
- Donors may not receive quid pro quo benefits. If the donor receives any benefits that would typically reduce his or her charitable deduction (such as football tickets) no portion of the IRA distribution may be excluded from income.
- IRA rollovers to private foundations, donor-advised funds, and supporting organizations [defined in IRC section 509(a)(3)] are explicitly excluded from the new tax benefits. While college and university foundations may consider themselves "private" or

be included as “supporting organizations” on institution financial statements, most college and university foundations are technically public charities [(509(a)(1))] and qualify as recipients of qualified charitable distributions.

- As noted above, IRA accounts may be funded with both pre- and post-tax dollars and withdrawals may be taxable or nontaxable. Distributions of nontaxable assets do not count as “qualified charitable distributions” and donors cannot exclude such gift amounts from income. Donors may, of course, contribute such assets and claim a regular charitable deduction.
- Gifts to institutions made through an IRA rollover should be included in figures reported to the Voluntary Support of Education Survey.
- Charities should encourage donors to consult with their tax and financial advisors before making distributions and to inform charities about intended gifts.

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