

CONGRESS REINSTATES IRA CHARITABLE ROLLOVER GIFTS

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The Tax Relief Act of 2010 re-authorized IRA Charitable Rollover gifts through the end of 2011. First enacted in 2006 as part of the Pension Protection Act, the provision allows individuals over age 70½ to donate up to \$100,000 from Individual Retirement Accounts (IRAs) to public charities without having to recognize the distribution as taxable income.

In order to qualify for the rollover, very specific rules must be followed. The rollover can only be made from an IRA account, and not from a 401k, 403b, SEP or other qualified retirement plans. Most importantly, the gift must be made directly from the IRA administrator to the charity. The IRA administrator must make the check or transfer payable directly to the charity, although the administrator may mail the check to the donor, so that the donor can present the gift to the charity.

Because Congress passed the law so late in 2010, donors may make a gift from their IRA until January 31, 2011, and count the gift as a gift made in 2010. Gifts for 2011 must be made no later than December 31, 2011, when the act expires. The gift can be applied to the Donor's Required Minimum Distribution.

The gift be made to a "public charity", typically referred to as a 501(c)(3) organization. Qualified gifts cannot be made to a donor advised fund or a supporting organization.

The benefit of a direct gift is that the donor does not recognize the gift as taxable income, and therefore is not limited to the charitable contributions limitation against income if the gift were reported on their 1040s. While the gift does not qualify as a charitable deduction, the gift is never subjected to income tax. This is important for higher income taxpayers whose charitable contribution deduction may not totally offset taxes they must pay for receiving distributions from their IRA. If the taxpayer is subject to state income tax, they may have to pay state income taxes on the IRA distribution, even if it is deductible for federal income tax purposes. By utilizing this direct gift, the income is never recognized for federal or state income tax purposes.

Gifts directly from your Individual Retirement Account allows you to make a difference to your favorite charity, while providing maximum income tax benefits to you.

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