

## **Fact Sheet on The IRA Charitable Rollover**

### ***How does current law treat charitable gifts made from IRAs?***

As passed in the Pension Protection Act of 2006 and extended through Dec. 31, 2009 in the Emergency Economic Stabilization Act of 2008, the current IRA Rollover provision exempts from taxable income any funds transferred (“rolled over”) from an Individual Retirement Account (IRA) to a charitable organization. The following limitations apply:

- The donor must be age 70½ or older.
- The cap on annual IRA rollovers is \$100,000.
- The contribution must be a direct gift to a charity (no planned gifts).

### ***Why would donors want to give some of their IRA assets to a charity?***

Many individuals have more than sufficient funds to retire comfortably. In addition, individuals are encouraged under the current tax laws to liquidate their IRAs during their lifetime since their estates will face confiscatory tax rates of up to 80 percent if their IRA funds are left to a dependent or family member (other than their spouse). Any amounts left in an IRA when an individual dies may be taxed as income to the beneficiary and are also considered assets for the purposes of calculating that individual’s estate tax liability.

It is estimated that there are more than \$3 trillion in retirement funds such as IRAs. Even if only a small percentage of these funds were donated to charitable purposes, it could add millions of dollars to support the vital work of nonprofit organizations in communities across America. In fact, these contributions support programs for those less financially well-off through important services, such as those provided by health, education, social service, and cultural organizations.

By taking advantage of the IRA Rollover provision, individuals over the age of 70½ can not only help our nation’s charities fulfill their mission, but they also can liquidate their IRAs tax-free for gifts to charity (up to \$100,000).

### ***Can donors contributing IRA assets to a charity claim a tax deduction?***

No, because a contribution to a qualified charity is not taxed as income under the IRA Rollover provision, the donor cannot claim a tax deduction for that contribution.

### ***Which charities are eligible for this provision?***

Any charitable contribution you make from an IRA must go directly to a public charity. Contributions to supporting organizations, donor-advised funds, and private foundations, except in narrow circumstances, do not qualify for the tax-free treatment. To be safe, we recommend that you contact the recipient charity to confirm that it is eligible to receive tax-free gifts from IRAs.

The charity’s determination letter from the IRS will indicate whether it is a qualified charity, exempt under Sections 501(c) and 509(a)(1), 509(a)(2), or 509(a)(4) of the Internal Revenue Code.

- Private foundations, donor-advised funds, and supporting organizations [defined in IRC section 509(a)(3)] are explicitly excluded from the tax benefits of the IRA Rollover provision.
- However, most college and university foundations are technically public charities [(509(a)(1)] and under this provision, are eligible for tax-free gifts from IRAs.

***What kind of retirement accounts can be utilized?***

Distributions can only be made from traditional Individual Retirement Accounts or Roth IRAs.

Charitable donations from 403(b) plans, 401(k) plans, pension plans, and other retirement plans are not eligible for the tax-free treatment.

***Do charitable contributions from IRAs count toward your annual IRA distribution requirement?***

Yes, you can give your required distribution to a qualified charitable organization without having to count it in your taxable income.

***What are the substantiation/receipting requirements of the IRA Rollover provision?***

In order to benefit from the tax-free treatment, you must obtain written substantiation of each IRA rollover contribution from each recipient charity.

In most instances, your IRA administrator will send your charitable donation in the form of a check directly to the recipient charity and is not likely to include your name with the contribution. In requesting the distribution by letter, you should ask your IRA administrator to include your name and contact information with the contribution.

You should also inform the recipient charity of your donation and request contemporaneous written acknowledgement. You can do this by submitting a letter to the recipient charity asking it to acknowledge in written form:

1. The gift amount
2. That the organization is a public charity qualified to receive donations from IRAs
3. That the gift will not be distributed to a donor-advised fund or supporting organization
4. That no goods or services were received by you in exchange for the contribution

*\*This document was created for informational purposes only and should not be viewed as formal tax advice or legal opinion. AFP strongly encourages those individuals and organizations that are interested in the IRA Rollover provision to discuss this provision with qualified legal and financial advisers.*