

# EXTENSION

## Ira Charitable Rollover

**Current Law:** On Oct. 3, 2008, Congress passed and the president signed the Emergency Economic Stabilization Act of 2008 (H.R. 1424), legislation that includes a two-year extension of the IRA charitable rollover. The provision, originally enacted as part of the Pension Protection Act of 2006 (PPA), permits IRA owners starting at age 70½ to make tax-free charitable gifts totaling up to \$100,000 per year from their IRAs directly to eligible charities, including schools, colleges and universities.

**Rationale:** Prior to enactment of the IRA charitable rollover, individuals who wanted to make charitable contributions of traditional IRA assets could have suffered negative tax consequences. Even if funds were transferred directly to a public charity, the donor still had to report the IRA gift as ordinary income taxable at regular rates. Donors were able to offset the increase in taxable income in part by claiming charitable deductions. This, however, posed several problems for would-be donors:

1. taxpayers could claim only charitable deductions equal to 50 percent of their income in a given year;
2. the value of possible itemized deductions could be further reduced by limits on itemized deductions for higher-income taxpayers; and
3. increases in federal adjusted gross income could increase state tax liabilities and in some cases cause more of their social security income to be taxed.

With the enactment of the IRA charitable rollover, eligible donors who direct IRA funds to eligible charities can exclude up to \$100,000 per year in IRA gifts from their ordinary taxable income. The provision expires on Dec. 31, 2009.

**Status:** On Oct. 3, 2008, the President signed the Emergency Economic Stabilization Act of 2008 into law. The Act included a two-year extension of the IRA charitable rollover, originally enacted as part of the PPA. The provision will expire on Dec. 31, 2009.

### Overview of IRA Charitable Rollover Provision

The IRA charitable rollover provision, approved as part of the PPA:

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 70 1/2 or older.

The provision was extended on Oct. 3, 2008. It expires on Dec. 31, 2009

### How Does It 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 percent 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.
- 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.

***IMPORTANT NOTE: This summary was prepared as an informational service and is not intended as legal or tax advice. Consult your own legal or tax advisor before making any decision based on this information.***