



ISSUE PAPER

Expand and Extend the IRA Charitable Rollover

Position: The Council strongly supports permanently extending the IRA charitable rollover and expanding the provision to remove limitations on the age of donors and the size of the gifts and to permit charitable rollovers to donor-advised funds, supporting organizations, and private foundations.

Background

Prior to 2006, taxpayers wishing to transfer Individual Retirement Account (IRA) assets to charity first had to recognize the amount as income, make a transfer, and then claim a charitable contribution deduction for the amount gifted. This often resulted in tax liability, even though the donor ultimately transferred the entire IRA distribution to charity. The Pension Protection Act of 2006 (PPA) partially solved this problem by allowing individuals to transfer amounts from their IRA accounts directly to charity without first having to recognize the distribution as income. However, that provision was limited in several respects: it was effective for gifts made in 2006 and 2007 only; it was limited to taxpayers age 70 ½ or older; the amount of gifts was capped at \$100,000; and donors were specifically not permitted to make charitable rollovers to donor-advised funds, supporting organizations, and private foundations.

Current Law

On December 17, 2010 President Obama signed into law the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, which, among other provisions, extended the IRA rollover provisions to apply to transfers occurring in 2010 and 2011. Because the drafters recognized that it was very late in the year at the time of the bill's enactment into law, individuals who choose to make a qualified charitable distribution from their IRA trustee to a charity may make their 2010 distribution any time during 2010 or during January of 2011. Congress determined that the time necessary to make these transfers should be extended for one additional month for the required 2010 distributions. However, the legislation did not remove any of the other limitations on charitable IRA rollovers imposed by the PPA.

Rationale to Expand the Provision

Increase Charitable Giving: The charitable IRA rollover has proven popular with donors, resulting in increased giving from IRA accounts. By expanding the charitable rollover to all philanthropic tools, including donor-advised funds, supporting organizations, and private foundations, charitable giving would increase even more. In particular, community foundations, which make as much as two-thirds of their grants from donor-advised funds, would be able to attract new sources of support from within their communities. These new gifts are particularly important for small community foundations—those with less than \$5 million in assets—which are particularly dependent on donor-advised funds to provide the charitable resources their communities need.

Equitable Tax Policy: Donor-advised funds, supporting organizations, and private foundations, along with public charities, all play critical roles in meeting the needs of the communities they serve. Yet, current law permits charitable IRA rollovers to some of those types of entities but not others. Congress identified no basis for excluding charitable IRA rollovers to certain philanthropic vehicles. Concerns that Congress may have had about supporting organizations and donor-advised funds were fully addressed in the reforms enacted as part of the PPA.

Opposition

Unclear: No clear rationale persists for preventing donors from transferring assets directly from IRA accounts to donor-advised funds, supporting organizations, and private foundations. Some Hill staffers have said that they remain concerned by the lack of a payout requirement for donor-advised funds. However, average payout from donor-advised funds significantly exceeds the minimum payout that is required of private foundations and proposed for certain Type III supporting organizations.

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