

IRA Charitable Rollover Provision for 2010 and 2011

Overview

The Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 signed into law on December 17, 2010, extended the IRA Charitable Rollover gift provision for the years of 2010 and 2011. The Act permits IRA owners age 70 ½ or older to make direct transfers from IRAs to charity.

- For calendar year 2010, donors may transfer up to \$100,000 until January 31, 2011
- For calendar year 2011, donors may transfer up to \$100,000 until December 31, 2011

Explanation of Provision

Individuals may make gifts to charity from traditional and Roth IRA accounts without any federal tax liability as long as the gifts are “qualified charitable distributions”. No charitable deduction may be taken by the owner, but distributions will qualify for all or part of an IRA owner’s required minimum distribution.

Requirements for “qualified charitable distributions”...

- Gifts are tax-free up to \$100,000 per year
- Gifts for the year 2010 must be made by January 31, 2011
- Gifts for the year 2011 must be made by December 31, 2011
- IRA holder must be age 70 1/2 or older
- Distributions must be made directly to public charities
- Distributions to donor-advised funds or support organizations are not permissible
- Distributions must be an outright gift to the charity
- Distributions may only be made from traditional IRAs or Roth IRAs

Frequently Asked Questions

Can I make a charitable gift from my 401(k) or 403(b) plan?

No, the charitable gift is restricted to distributions from traditional IRAs and Roth IRAs. Distributions from 401(k), 403(b), SEP, KEOGH and Simple IRA accounts do not qualify. However, it may be possible to rollover your retirement account into a traditional IRA in order to make a qualified distribution. Talk with your financial planner or IRA administrator about your rollover options.

Can I use my IRA to fund a Charitable Gift Annuity or Charitable Remainder Trust?

No, despite efforts of the charitable community, this provision does not allow gifts from an IRA to fund a Charitable Gift Annuity or Charitable Remainder Trust. Qualified charitable distributions are limited to outright gifts.

Will my charitable distribution qualify for my required minimum distribution (RMD)?

Yes, your gift may be calculated as part of your required minimum distribution. This provision is especially helpful to those individuals who are required to take unneeded IRA withdrawals. With the passing of the new law so late in the year, many may have already taken their RMD for 2010. However, you may also want to make a tax-free charitable gift designated for 2010 and may do so until January 31, 2011. You may also make a tax-free gift for the year 2011, if made by December 31.

Do I receive a deduction for my gift?

No, because the IRA assets haven't been taxed, no deduction is allowed. To receive a deduction, you would be required to treat the distribution as taxable income first, before taking the deduction. In most cases, it is better not to take the distribution as income.

Who benefits most from this Law?

There are several groups of individuals who will benefit from the charitable rollover.

1. People who normally don't itemize their deductions can avoid taking the IRA distribution as income and send it directly to charity. This may reduce both their federal and state income tax liability.
2. Individuals whose IRA distributions increase their income to a level where 85% of their social security is taxed may want to make a qualified charitable distribution to reduce their income.
3. Individuals who give over 50% of their income to charity will not be constrained by the 30% and 50% limitations on charitable deductions on gifts from their IRAs.
4. Individuals in high income brackets who have large IRAs may have substantial income tax savings not otherwise available because of charitable deduction limitations. A qualified charitable distribution up to \$100,000 may have the triple benefit of reducing their taxable income, reducing the value in their IRA, and meeting their required minimum distribution.

This Fact Sheet is intended for educational purposes and is not professional tax or legal advice; consult a financial professional or tax advisor about your specific situation.



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