

Twists and Turns to Charitable Rollovers

Tax break for retirees still available in 2011

By **Chuck Inderieden, CPA, PFS**
(480) 483-1170 ~ ChuckI@hhcpa.com



A federal tax law passed late in 2010—the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act—extended a unique planning opportunity for certain retirees. Under this legislation, an individual age 70½ or older can transfer funds directly from an IRA to a qualified charitable organization without paying any tax on the distribution.

Significantly, the “charitable rollover” counts as a required minimum distribution (RMD) for the 2011 tax year. Under the rules for RMDs, an individual age 70½ or older is generally required to receive distributions each year.

Technically, the charitable rollover break expired after 2009. But the 2010 law reinstated the provision retroactive to January 1, 2010, and extended it through December 31, 2011. In other words, you have until the end of this year to take advantage of this tax provision.

In the past, you could not directly transfer funds tax-free from an IRA to a charitable organization. Instead, you were required to pay tax on the distribution, regardless of your charitable intentions. The tax law also worked against retirees who wanted to use IRA funds for charitable donations but no longer itemized their deductions.

The Pension Protection Act of 2006 (PPA) changed the rules for individuals age 70½ and older. It allowed these retirees to transfer IRA funds directly to charity up to an annual limit of \$100,000. Although no tax deduction was allowed, donors were not taxed on the distribution, either. The PPA tax break was subsequently extended through 2009. This provision was extended again through 2011 by the 2010 legislation.

A qualified distribution is one from an IRA that would otherwise be taxable. The distribution must be made directly from the IRA trustee to the charitable organization. In other words, you cannot handle the funds and then transfer them to the charity’s coffers.

Furthermore, the contribution must qualify as a charitable donation. If the deductible amount decreases because of a benefit received in return—a dinner at a fund-raising event, for example—or the deduction

would not be allowed due to inadequate substantiation, the exclusion is not available for any part of the IRA distribution.

Under a special rule for charitable donations, the IRS treats distributions from an IRA funded at least partially with nondeductible contributions as coming first from taxable funds and then from nontaxable funds. All of the taxpayer's IRAs are grouped together for purposes of this calculation. Therefore, you cannot single out just one account.

Finally, an IRA participant is generally required to begin receiving RMDs in the year after the year in which he or she turns age 70½. A qualified charitable distribution counts toward this requirement.

Be aware that the rules also apply to Roth IRAs. Roth IRA distributions to individuals older than age 59½ are usually tax-free. But a portion of a distribution may be taxable for a Roth in existence less than five years. If you have both a traditional IRA and a Roth IRA, it generally makes sense to use the traditional IRA first for charitable distributions.

The charitable rollover break for retirees could be extended again by new legislation currently being discussed in Congress. We will keep you posted.

Chuck Inderieden, CPA, PFS, Co-Managing Partner of Henry & Horne, LLP, possesses an extensive knowledge in estate, gift and trust planning services for individuals, trusts, and small to medium-size businesses. He can be contacted at (480) 483-1170 or ChuckI@hhcpa.com.



HENRY & HORNE, LLP
Certified Public Accountants

Tempe
2055 E. Warner Road
Suite 101
Tempe, AZ 85284
(480) 839-4900

Scottsdale
7098 E. Cochise
Suite 100
Scottsdale, AZ 85253
(480) 483-1170

Casa Grande
1115 E. Cottonwood
Suite 100
Casa Grande, AZ 85122
(520) 836-8201

www.henryandhorne.com