

# **IRA Distribution Gifts to Charities: What Donors Should Know about the New Tax Law**

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The Pension Protection Act signed into law August 17, 2006 includes a new, temporary charitable-giving incentive that will help qualified people give up to \$100,000 tax free to their favorite charities. For individuals older than 70- 1/2, the legislation allows tax-free transfers of money directly to charities from traditional or Roth Individual Retirement Account (IRA) assets, without first counting it as income and paying income tax. The incentive is scheduled to end on December 31, 2007, and will apply to gifts completed by January 1, 2008.

The new law allows a tax-free rollover of funds for charitable donations. The only restriction is that the donations be made directly to qualified public charities as defined by the Internal Revenue Service. Donations to private foundations and donor-advised funds are not covered.

In the past, individuals who wanted to donate IRA funds weren't able to completely deduct the gift for federal income-tax purposes because of the 50 percent of adjusted gross income (AGI) limit. Also, income tax had to be paid on IRA withdrawals, so the value of those gifts was reduced. Under the new law, the donated funds are transferred directly to charities and are not included in the IRA owner's income, so they are not taxed.

The new law is a favorable opportunity for people who have ample income from sources other than their IRA and view the required minimum distributions as an unnecessary burden because it forces their income higher; possibly phasing out the deductibility of schedule A expenses. By gifting the required minimum distribution to charity, the owner has more ability to control their income and enjoy the easy, simple way to make a charitable gift and fulfill their required minimum distributions requirements.

Most gifts to charity are not tax deductible because most taxpayers do not itemize their return and utilize the standard deduction instead. (But this is not true of your target market, right?) Under the new law, IRA donors will not receive deductions for the charitable gift, but the IRA distribution will not be counted as income, and the donor's tax bill will be lowered.

For those who do itemize and make substantial gifts to charity each year, there are limitations. Taxpayers are only allowed to deduct 50 percent of their adjusted gross income on gifts of cash and 30 percent on appreciated securities to public charities. A major donor may give the full \$100,000 per year, and may donate \$200,000 if married and their spouse has an IRA. While there is no added deduction, avoiding the additional \$100,000 of taxable income may offer substantial tax savings.

Taxpayers at the lowest end of income spectrum may also enjoy benefits. For those with a large IRA and little need for income (who falls into this category?), the required minimum distribution forces increases in income to a level where 85% of his/her Social Security is taxable. By taxing advantage of these temporary IRA

rollover to charity regulations one might be able to lower income to point where only 50% of Social Security Benefit is taxable or perhaps none at all.

Anyone interested in making a gift of IRA funds under the new tax law provisions should contact his or her financial and legal advisors. After consultation, an IRA plan administrator can arrange for a check to be sent to the qualifying charity. Most financial institutions do not keep track of nondeductible IRA contributions, so taxpayers must validate the eligibility of the contribution. Also, taxpayers must verify that the recipient charity is a qualified organization.

*Scott White helps families develop and implement successful estate and financial plans. Recognized as one of the top financial planners in the U.S. by the Consumers' Research Council of America, Scott is a Certified Financial Planner™, a Chartered Financial Consultant, a Chartered Life Underwriter, and holds a master's degree in business administration. He is past president of the Southwest Florida Chapter of the American Society of Financial Service Professionals, past president of the Lee County Estate Planning Council, founding president of the Planned Giving Council of Lee County and a member of the Financial Planning Association Southwest Florida Chapter. Scott served on the National Committee on Planned Giving's Leave a Legacy committee. He specializes in meeting the comprehensive financial and estate needs of high net worth families. For more information, visit <http://www.scottwhiteadvisors.com/>. Scott White Advisors is located at 1510 Royal Palm Square Boulevard, Fort Myers, Florida 33919; telephone (239) 936-6300. Securities offered through Raymond James Financial Services, Inc., member, NASD/SIPC.*