



Using an IRA Charitable Rollover to Make Charitable Gifts to Eligible Charitable Organizations

By Dani N. Ruran & Theresa M. Varnet, Esq.

The individual retirement account (IRA) charitable rollover provision [Internal Revenue Code Section 408(d)(8)] allows taxpayers who are over the age of 70 1/2 to make donations (called “qualified charitable distributions”) directly from their IRA to certain charitable organizations that qualify as an eligible charity. The Protecting Americans from Tax Hikes (PATH) Act, which makes the charitable rollover provision permanent, was signed by President Obama in December 2015. The PATH Act allows individuals over 70 1/2 to reduce their taxable income by transferring a charitable gift directly from their IRA to the charity.

In addition, after the age of 70 1/2, individuals are required to take required minimum distributions (RMDs) from their IRAs. These distributions are included in the individual’s adjusted gross income (AGI), and the individual then pays taxes on the distributions. The IRA charitable rollover allows the individual to make donations directly from his or her IRA to a charitable organization without counting the distributions as income, resulting in the individual not having to pay taxes on the amount donated.

Without the IRA charitable rollover provision, taxpayers who itemize deductions – rather than taking the standard deduction (in 2017, \$6,350 for single taxpayers; \$12,700 for married taxpayers) – and want to use an IRA to make a charitable donation would withdraw the desired amount from the IRA, an amount that would then be included in the taxpayer’s AGI. If then donated to a qualifying charity, it would qualify for an income tax charitable deduction, but this deduction could be limited, because (1) charitable deductions made in a given year are limited to a percentage of one’s AGI (50%, 30% or 20%), with the excess carried forward for up to five years, and (2) itemized deductions are limited depending on the taxpayer’s AGI level. These limitations make the IRA charitable rollover provision more effective in reducing a donor’s income taxes if an IRA is used to fund the donation. In addition, including IRA distributions in one’s AGI could cause income taxes on Social Security benefits to increase and Medicare insurance premiums could increase.

The IRA charitable rollover provision is particularly helpful to those persons who no longer choose to itemize deductions and therefore do not get a federal tax benefit from their charitable contributions. It is important to note that the IRA charitable rollover provision does not permit the taxpayer to also take a charitable deduction for the amount gifted from his or her IRA to the charity, because this income is not included as part of his or her AGI.

In addition, Massachusetts taxpayers may also save on their state income tax returns by utilizing the charitable rollover provision, since Massachusetts is one of the few states that do not permit charitable deductions. Because the amount paid directly to a charity from one’s IRA is not included in one’s AGI, Massachusetts taxpayers may get an added advantage.

The following information is important to keep in mind. Under the IRA charitable rollover provision, charitable distributions can be made only from one’s own IRA (not from an inherited IRA). Charitable donations from 403(b) plans, 401(k) plans, pension plans or other retirement savings plans, such as simplified employee pensions (SEPs) and simple retirement accounts, are not eligible for the special tax treatment. There is also a maximum donation limit of \$100,000 per year from your IRA. Any gifts in excess of \$100,000 per year will not qualify for the tax exemption. In addition, as some charities and private foundations (for example, donor-advised funds, supporting organizations, private nonoperating foundations and split-interest trusts such as charitable remainder trusts) do not qualify for the tax-free treatment, it is important to confirm with the charity and/or an accountant or attorney who is knowledgeable about the IRA charitable rollover. **FT**

Dani Ruran, Esq.

P: 508.459.8048

F: 508.459.8348

E: druran@fletchertilton.com



Theresa Varnet, Esq.

P: 508.459.8079

F: 508.459.8379

E: tvarnet@fletchertilton.com

