

# The IRA Charitable Rollover

*A New Incentive for Charitable Giving*



In 2006 and 2007, we learned about the IRA Charitable Rollover — the option to order a distribution from an IRA directly to our organization. The distribution was excluded from the IRA owner's income for federal tax purposes, though it did count towards the owner's required minimum distribution for that year. Donors really appreciated the simplicity of the IRA Charitable Rollover. But Congress had put a time limit on the IRA Charitable Rollover and this opportunity closed at the end of 2007...

But the IRA Charitable Rollover has returned! Congress revived it with a new law, and this giving opportunity is now available through the end of 2009. Here are some details about the IRA Charitable Rollover for your consideration.

## **The Basic Idea**

To understand the possible advantages the IRA Charitable Rollover affords, here are the basics:

- An Individual Retirement Account (IRA) is a tax-deferred retirement account.
- One contributes to the account and, for a traditional IRA, takes an above-the-line income tax deduction.
- As IRA assets increase in value, the earnings are not taxed.
- However, once an amount is withdrawn from these accounts, the distribution is typically taxed as ordinary income (a marginal tax rate as high as 35% in 2008).

Before the arrival of the IRA Charitable Rollover, the only way to make a lifetime charitable gift using IRA assets was to first withdraw an amount from the IRA, and then send the same amount to a qualified charity. As noted, the withdrawal would be taxed as ordinary income. The amount transferred to charity could be deducted by the donor (subject to deduction limits). Hopefully, the charitable deduction would successfully offset the income tax due on the withdrawal from the IRA account.

Now, under the new law, the IRA Charitable Rollover features one simple step:

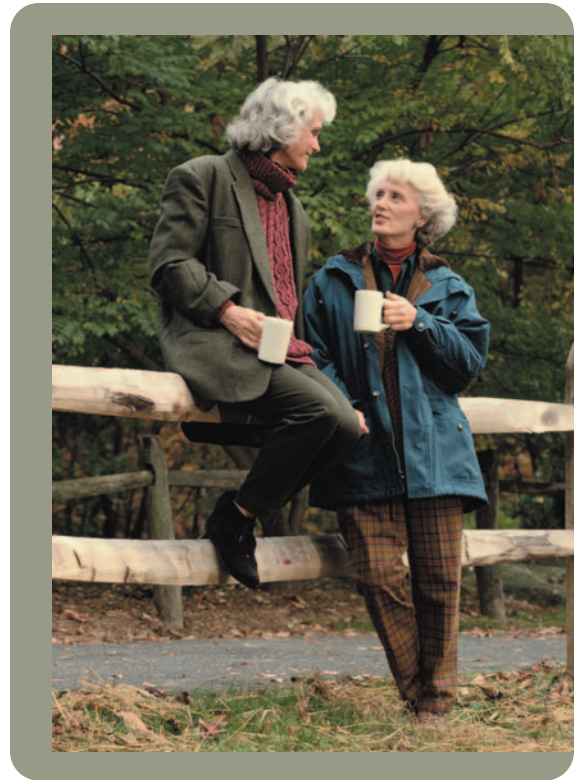
**The IRA owner instructs the IRA custodian to transfer a specific dollar amount directly to a charity.**

It is that simple. The IRA owner does not include the IRA distribution as income. The charity immediately benefits from the gift — A simple transfer with an instant impact!

## The Basic Criteria

Here are the highlights of the IRA Charitable Rollover:

- The IRA Charitable Rollover provision is in effect for 2008 and 2009.
- Donors must be 70 1/2 or older on the date of the distribution in order to participate.
- Donors direct the distribution to a qualified charity as defined in IRC §170(b)(1)(A) (with some exceptions).
- Donors may count the amount of the distribution made through an IRA Charitable



Rollover towards the Required Minimum Distribution for tax-deferred retirement accounts in that year.

- The donor may exclude up to \$100,000 per year with the IRA qualified charitable distribution.

### An illustration

Abby B. (age 72) owns a traditional IRA with a balance of \$350,000. The entire balance consists of deductible contributions and earnings. After calling our offices for general information on the IRA Charitable Rollover, she discussed matters with her CPA and decided she wanted to make a qualified charitable distribution from her IRA this year.

She instructs the IRA custodian to distribute \$20,000 directly to our organization. The entire \$20,000 qualifies as a charitable distribution:

- The distribution is not included in Abby's personal income on her federal taxes.
- The distribution is not taken into account in determining the amount of Abby's charitable deduction for the year.

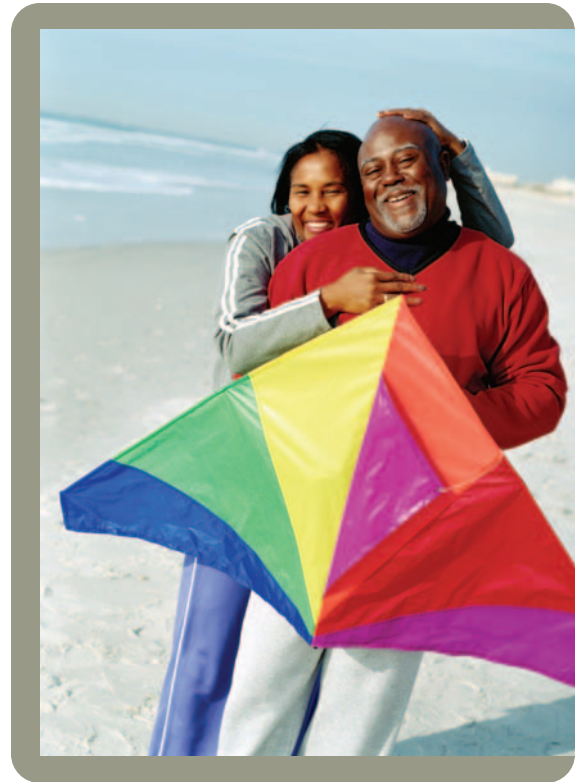
- The distribution *does* count towards the amount that Abby has to take from her IRA as a required minimum distribution for 2008.

Abby appreciates the simple process and thinks the qualified charitable distribution is a great way to make a gift to our organization without stretching her patience.

### Ideal for Many Donors

Here is a short list of the types of donors who might benefit from the IRA Charitable Rollover:

- Donors who do not itemize deductions on their income taxes but who want to make a charitable gift. The same donors eligible to make an IRA Charitable Rollover gift also are required to take a minimum distribution from the same account. Instead of realizing the income from a distribution, a donor can simply direct the distribution to a charity. That way, the donor who does not itemize will not realize taxable income in an effort to make a charitable gift.
- Donors who live in states that do not offer a charitable deduction for income tax purposes. There are several states which either have no deduction for charitable gifts, or have limited the deduction. If a gift is made directly to a charity from an IRA, the availability of the charitable deduction is moot.
- Donors who are subject to the deductibility limits (50% of adjusted gross income for a gift of cash to a qualified charity). A donor can make a gift directly from an IRA without it affecting the deductibility limits (because the gift is not deducted). The IRA Charitable Rollover approach permits a donor to make a larger gift to a charity yet stay within the deductibility limits for charitable deductions.
- Taxpayers who begin to lose tax deductions as the adjusted gross income increases. If the taxpayer chooses to direct a distribution from the IRA to a charity, the amount is not included in his or her gross income. This way the taxpayer can keep the adjusted gross income lower and keep other deductions intact.



### Some Limitations

The IRA Charitable Rollover offers important benefits to donors, but, there are some limitations. Here's a brief list to keep in mind:

- Donors may not take an income tax charitable deduction for the distribution.
- Donors may not direct the tax-free distribution to fund a gift annuity or a charitable remainder trust.
- Donors may not direct the tax-free distribution in lieu of entertainment opportunities provided by the charity.
- Donors may not direct the tax-free distribution to a donor advised fund or a Sec. 509(a)(3) supporting organization.
- Donors must direct the distribution from an IRA only (a traditional IRA or a Roth IRA, though there may be less incentive to use a Roth IRA since distributions are generally tax-free). Distributions made from a 401(k), 403(b), or 457 plan, etc. do not qualify.
- Donors must direct a distribution that would otherwise be considered as taxable.

- Donors receive a 1099-R form from the IRA Trustee to report the distribution. On the federal 1040 tax return, a donor should list the qualified charitable distribution as non-taxable.

### The Next Step

After consulting your financial and tax advisors to see whether the IRA Charitable Rollover is right for you, the next step is to contact the trustee of your IRA account and request the qualified charitable distribution. Most IRA custodians are aware of the change in the tax law and may have a written form for you to complete the transfer. Otherwise, you must send a written request to your trustee.

Also, be sure to contact us to let us know to expect a distribution from your IRA account. Because the qualified charitable distribution requires substantiation just like a normal gift, we want to send you an acknowledgment that we have received the noted funds.

To learn more about how the IRA Charitable Rollover fits into your plans, talk to your financial and tax advisors, or contact our office. We are glad to provide more information or answer any questions regarding this exciting development in charitable giving.

