

February 8, 2016

## Permanency of the IRA Charitable Rollover Is Good News for Donors!

The Protecting Americans from Tax Hikes (PATH) Act of 2015, which was passed by Congress and signed by President Obama in December 2015, permanently extended three charitable giving incentives that had expired in January 2015. One of those incentives is the "IRA charitable rollover."

The IRA charitable rollover is found in Section 408(d)(8) of the Internal Revenue Code and allows individuals who have reached age 70½ to donate up to \$100,000 annually to "eligible charitable organizations" directly from their individual retirement account (IRA) without treating the distribution as taxable income. Treating the direct distribution of IRA funds to charity as a pure exclusion from income has many advantages:

- Because the IRA charitable rollover is independent of the charitable income tax deduction, the benefit is not subjected to the maximum ceiling and carry-forward limitations that otherwise apply to charitable contributions.
- The tax benefit is available even if an individual does not itemize deductions for federal income tax purposes.
- For those who do itemize deductions, certain states, such as Connecticut, Massachusetts and New Jersey, do not allow the benefit of itemized deductions. Accordingly, the treatment of the distribution as an exclusion from income affords taxpayers in those states a state income tax benefit that would otherwise be unavailable if the distribution were treated as income to the taxpayer with a corresponding federal charitable deduction.
- Finally, the IRA distribution directly to charity can satisfy minimum distribution requirements, which further lowers an individual's recognized level of taxable income.

Only distributions to eligible charitable organizations (generally speaking, those that receive broad public support) are permitted. Gifts to donor-advised funds and private foundations (other than private operating foundations) will not qualify for the IRA charitable rollover.

Donors should keep in mind that the distribution should be made by the IRA custodian directly to a charity. If the distribution is made to the donor and subsequently distributed to a charity, the benefits of treating the distribution as an exclusion rather than a deduction as listed above do not apply. Finally, donors should be sure to obtain an acknowledgment letter from the charitable recipient in order to make use of the exclusion.