



## A New Way to Give to Charity

Among the provisions of the massive 900-plus-page Pension Protection Act of 2006 is a charitable giving opportunity for taxpayers 70½ or older. These taxpayers can now make a “qualified charitable distribution” directly from their IRA(s), and turn an otherwise taxable distribution into an exclusion from gross income.

The new law allows these IRA owners to make direct transfers of up to \$100,000 per year from their IRA to a charity. The distribution will not be taxable, and there is no charitable deduction allowed on the tax return. Distributions can be made from funds in an IRA or Roth IRA, but not from employer plans, or SEP and SIMPLE IRAs. The distribution can also satisfy a person’s Required Minimum Distribution (RMD) for the year.

This opportunity could be very short-lived; the provision became available for IRA distributions taken after Aug. 17, 2006 and currently applies only through the end of 2007.

The new rule is great for taxpayers who want to contribute some of their IRA funds to a charity during their lifetime, as they can now do so without having to add the IRA distribution to their income. Even if the taxpayer itemizes, and is able to get a charitable deduction to apply against that income, the reality is that it often doesn’t offset perfectly, so this opportunity is generally more favorable. Making a direct transfer from your IRA lowers your adjusted gross income (AGI) and might avoid or lessen the amount of your Social Security benefits that are taxed; the reduction in AGI can also increase tax deductions, exemptions, or credits that are pegged to AGI. Even better, these charitable distributions are deemed to come from income first if the IRA has non-deductible contributions (this contrasts with the normal pro-rata rule that applies to other IRA distributions where there are after-tax funds in the IRA).

To take advantage of this provision, the distribution must be made directly from the IRA custodian/trustee to the charity -- the custodian will issue a distribution check made payable to the charity. The check cannot be made payable to the IRA owner, who then subsequently writes a check to the charity; if that is done, the distribution will be taxable.

Charities must fall under IRS code section 170(b) to be eligible -- tax-exempt organizations eligible to receive deductible contributions. However, donor advised funds, charitable remainder trusts and private foundations are ineligible. Finally, to qualify for this provision, you must have documentation to substantiate the donation (something in writing from the charity showing the date and amount of the contribution, and certifying that nothing of value was obtained in exchange).

The IRS has not yet provided guidelines regarding coding for 1099 forms or 1040 reporting (oh boy!). Schwab’s distribution forms don’t yet have a separate checkbox for this type of distribution; there’s a possibility that the year end 1099 will report this type of

distribution as a normal distribution, which means that you may have to alert your tax preparer that it was actually a qualified charitable distribution. It's also important to consider when making this type of distribution whether you want Schwab to withhold taxes; if you normally have Schwab withhold only the tax due on the distribution itself, you should elect no withholding.

Please let us know if you have any questions regarding this charitable giving opportunity.

-- Karen O'Brien. Posted 2/15/07.