

## IRA CHARITABLE ROLLOVER

### FREQUENTLY ASKED QUESTIONS

The Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 permits donors in certain circumstances to “roll over” up to \$100,000 from an individual retirement arrangement (IRA) directly to a qualifying charity without recognizing as income the assets transferred to the charity.

#### **What is an IRA charitable rollover?**

The Internal Revenue Code uses the term “qualified charitable distribution” to describe an IRA charitable rollover. Such a distribution is made to an eligible charitable organization from a traditional IRA — or a Roth IRA, although this option is seldom attractive to donors — of an individual who is 70 ½ or older at the time of the distribution. He or she may exclude from gross income distributions totaling up to \$100,000 per year.

#### **When does this provision take effect?**

The provision is time-limited; it applies only to distributions made in 2011, although distributions made in January of 2011 can be excluded from income for either 2010 or 2011.

#### **Does a donor also receive a charitable deduction when he or she rolls over assets to a charity under this provision?**

No. The benefit under this provision is that the individual does not recognize as income the amount contributed directly from the IRA to a qualifying charity. Because a donor does not include the amount in his or her gross income, he or she may not take a charitable contribution deduction for the contribution. This precludes receipt of a double benefit.

#### **To which charities may donors make qualified charitable distributions?**

Most contributions to public charities other than supporting organizations are considered qualified charitable contributions. However, distributions to donor-advised funds held by public charities are not qualified charitable distributions. Likewise, distributions to private foundations are not permissible.

#### **What if a donor distributes a total of more than \$100,000 to one or more qualified charities from an IRA for any one year?**

Since the amount the donor is able to exclude from income is limited to \$100,000, the excess would be recognized as income. The donor may still contribute the additional amount to charity; however, the extent to which that additional amount can be deducted from his or her income as a charitable contribution will be determined according to the rules applicable to the deductibility of charitable gifts in general.

#### **Under what circumstances will this special treatment of IRA charitable distributions most likely benefit a donor?**

Generally, donors who do not itemize deductions, as well as those who do itemize but need to be concerned with percentage limitations on charitable contributions (described below), will benefit from making a qualified charitable distribution. Traditionally, an individual who receives a distribution from an IRA and makes a corresponding charitable contribution must count the distribution as income, although he or she will receive a charitable deduction for any amounts transferred to charity. However, because of the application of the percentage limitations on charitable contributions, the charitable contribution deduction may not totally offset the taxes resulting from the distribution from the IRA. For that reason, the IRA charitable rollover provision allows a qualified charitable

distribution from an IRA to be entirely excluded from an individual's income. This means the percentage limitations do not apply and the donor secures a tax benefit.

**Note Regarding Percentage of Income Limitations on Charitable Deductions** In any year, a person may not deduct as charitable contributions more than 50 percent of his or her adjusted gross income gifts of cash to public charities. (The limit is 30 percent for gifts to private foundations.) Although amounts over 50 percent (or 30 percent, as the case may be) can be carried forward and deducted in the following year, taxpayers will face an immediate tax bill and may lose some of the benefit of the deduction if they die and the gift has not been fully deducted within 5 years of the year in which it was made. Donors who consistently give above the limit will be effectively unable to take advantage of the carry forward provisions.

**How is a qualified charitable distribution made?**

An individual instructs his or her IRA administrator to send a particular sum of money directly to a particular charity. Typically, this is done using a specific form available from the administrator, although those wishing to make a qualified charitable distribution to Seattle Parks Foundation can use the [attached sample form letter](#). Alternatively, a donor can request that the administrator send him or her a check for the desired amount made out to the charity, with the donor then mailing or otherwise delivering the check to the charity. In no event should the check be made out to the donor.

**Should a charity receiving a contribution directly from an IRA provide a gift acknowledgement?**

Yes. An individual must obtain a contemporaneous written acknowledgement of the contribution to take advantage of the treatment of the contribution under the IRA charitable rollover provision. Seattle Parks Foundation furnishes donors with acknowledgments for qualified charitable distributions from IRAs.

**May a charity provide any goods or services in return for the contribution?**

No. If a donor receives any goods or services (e.g., tickets to a fundraiser) that would have reduced the donor's charitable deduction if the donor had made an outright gift to the charity, the rollover of assets from an IRA will not qualify for the tax-free treatment under this provision.

**Can an individual make a qualified charitable distribution for split interest gifts?**

No. Charitable remainder trusts, charitable lead trusts, and pooled income funds are examples of giving vehicles that are not eligible to receive qualified charitable distributions. Further, because an individual may not receive a benefit in return for an IRA distribution, a contribution for a charitable gift annuity would not be eligible for the tax-free treatment.

**How will charitable distributions impact the minimum required distributions from a taxpayer's IRA?**

Shortly after an individual reaches the age 70 ½, he or she is generally required to receive distributions from his/her traditional IRA. A distribution from an IRA to a charity will receive the same treatment as a distribution to the individual taxpayer for the purposes of satisfying minimum required distributions.

**DISCLAIMER**

Every effort has been made to ensure the accuracy of this information. Please understand, however, that the information is not a substitute for expert legal, tax, or other professional advice, and that Seattle Parks Foundation strongly encourages donors to work with their own advisors to determine the impact of any contemplated charitable gift on their particular situations.