



ISSUE PAPER

Expand and Extend the IRA Charitable Rollover (S.557/H.R. 2502)

Position: The Council strongly supports permanently extending the IRA charitable rollover and expanding the provision to remove limitations on the age of donors and the size of the gifts and to permit charitable rollovers to donor-advised funds, supporting organizations, and private foundations.

S. 557

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H.R. 2502

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Background

Prior to 2006, taxpayers wishing to transfer Individual Retirement Account (IRA) assets to charity first had to recognize the amount as income, make a transfer, and then claim a charitable deduction for the amount gifted. This often resulted in tax liability, even though the donor ultimately transferred the entire IRA distribution to charity. The Pension Protection Act of 2006 (PPA) partially solved this problem by allowing taxpayers age 70 ½ or older to transfer up to \$100,000 annually from their IRA accounts directly to charity without first having to recognize the distribution as income. Since its passage, the rollover provision within the PPA has proven to be very popular with taxpayers and beneficial to charities. Yet, the provision remains limited in several respects: it is limited to taxpayers age 70 ½ or older; the amount of gifts is capped at \$100,000; and donors are specifically not permitted to make charitable rollovers to donor-advised funds, supporting organizations, and private foundations. Also, because the provision was only temporary, the IRA rollover provision must be extended regularly as part of a tax extenders package or it will cease to exist as an option for donors.

Proposal

To assist donors and grantmakers in making better use of their IRA charitable donations, Members of Congress have proposed the Public Good IRA Rollover Act of 2011 (S. 557/H.R. 2502). If enacted, it would: permanently extend the charitable IRA rollover incentive, eliminate the \$100,000 cap on rollovers, allow donors to make rollovers beginning at age 59 ½, and permit rollovers to donor-advised funds, supporting organizations, and private foundations.

Rationale

Increase Charitable Giving: Expanding the charitable rollover to all philanthropic tools—including donor-advised funds, supporting organizations, and private foundations—would promote even greater charitable giving. The IRA charitable rollover's popularity with donors has resulted in increased giving from IRA accounts. In 2010 donors contributed \$7.77 billion to donor-advised funds, an increase of 25.5 percent compared to 2009. With such increases, community foundations—which make as much as two-thirds of their grants from donor-advised funds—would be able to attract new sources of support from within their communities. These new gifts are particularly important for small community foundations—those with less than \$5 million in assets—which are particularly dependent on donor-advised funds to provide the charitable resources their communities need.

Equitable Tax Policy: Donor-advised funds, supporting organizations, and private foundations, along with public charities, all play critical roles in meeting the needs of the communities they serve. Yet, current law permits charitable IRA rollovers to some of those types of entities but not others. Congress identified no basis for excluding charitable IRA rollovers to certain philanthropic vehicles. Concerns that Congress may have had about supporting organizations and donor-advised funds were fully addressed in the reforms enacted as part of the PPA.

Opposition

Unclear: No clear rationale persists for preventing donors from transferring assets directly from IRA accounts to donor-advised funds, supporting organizations, and private foundations. Some Hill staffers have said that they remain concerned by the lack of a payout requirement for donor-advised funds. However, average payout from donor-advised funds significantly exceeds the minimum payout that is required of private foundations and proposed for certain Type III supporting organizations. In December 2011 the U.S. Department of Treasury released its “Report to Congress on Supporting Organizations and Donor Advised Funds” which confirmed that donor-advised funds payout rates far surpasses the five percent payout rates mandated for private foundations. The Treasury did not make any recommendations for instituting a percentage payout for donor-advised funds

Legislative Activity in the 112th Congress:

On December 17, 2010 President Obama signed into law the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, which, among other provisions, extended the IRA rollover provisions to apply to transfers occurring in 2010 and 2011. However, that legislation did not remove any of the other limitations on charitable IRA rollovers imposed by the PPA. The law authorizing charitable IRA rollovers (among 71 other tax extender provisions) expired December 2011. In the face of deficit reduction and the looming comprehensive tax reform, Congress has not yet taken up a tax extenders package in 2012. Many political analysts expect fiscal policy issues to largely be put on hold until either a lame duck session following the election, or the 113th Congress (2013).

How Can You Support Philanthropy:

Urge Congress to take up a tax extenders proposal this year and to support the IRA charitable rollover provision. In addition, please co-sponsor S. 557 and H.R. 2502, respectively which would not only extend the IRA charitable rollover to make it applicable to the 2012 tax year and beyond, but would also expand the incentive to include: gifts to donor-advised funds, supporting organizations, and private foundations; gifts above \$100,000; and planned gifts.

For more information, Contact the
Council's Government Relations Department at:
(703) 879-0600 or govt@cof.org