

Testimony of

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on behalf of

The Council on Foundations

in support of

Extension of the Charitable IRA Rollover

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Chairman Tiberi, Ranking Member Neal, and members of the Select Revenue Measures Subcommittee of the Ways and Means Committee, thank you for this opportunity to present testimony in support of extension of the charitable Individual Retirement Account rollover.

My name is Rob Collier, and I am president and chief executive officer of the Council of Michigan Foundations. The Council of Michigan Foundations (“CMF”) is a 501(c)(3) nonprofit membership association of more than 350 grantmaking organizations working together to strengthen, promote, and increase philanthropy in Michigan. CMF was formed in 1972 to represent foundation interests with state and federal officials, and it has since served as a centralized voice of Michigan philanthropy. Over its 40 year history, CMF has grown to become the nation’s largest regional association of grantmakers, serving family foundations, corporate foundations and giving programs, independent and community foundations, and public charities of all sizes. CMF represents 88 percent of the organized philanthropic assets in the state of Michigan.

I am testifying today on behalf of the Council on Foundations, of which the Council of Michigan Foundations is a member. The Council on Foundations represents over 2,000 grantmaking foundations and corporations with assets of over \$300 billion. As the voice of philanthropy nationally, the Council works to create an environment in which the movement can grow and thrive, and to promote policies that enable the philanthropic sector to work most effectively.

My testimony addresses a recently expired provision of the tax code that has proven to be a very important tool for donors who wish to make a positive difference in their community, but who may not have substantial assets beyond those typically saved by a family over the course of a lifetime, such as a retirement account. Until its expiration at the end of 2011, Internal Revenue Code section

408(d)(8) provided such donors the opportunity to make tax-free distributions from their individual retirement plans for charitable purposes.

By way of 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 contribution 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 partially solved this problem by allowing individuals to transfer amounts from their IRA accounts directly to charity without first having to recognize the distribution as income. Since its initial enactment, the charitable IRA rollover has been extended repeatedly with broad bipartisan support.

Extension of the recently expired charitable IRA rollover will be immensely helpful in ensuring that philanthropic organizations have the means and flexibility to address dramatically growing needs. Further extension of the provision regarding IRA rollovers will provide donors the greater certainty needed for prudent charitable gift planning, and will ensure future donors have the ability to use this efficient means of giving. The charitable IRA rollover has proven popular with donors, resulting in increased giving from IRA accounts. At this time of greater demands upon the charitable sector, when the private donors are increasingly called upon to help address critical needs in their communities amidst severe fiscal constraints upon the public sector, it is vitally important that we not deny individual donors seeking to do their part an important tool in facilitating charitable giving. That is particularly true for donors of relatively modest means, who disproportionately have utilized the charitable IRA rollover.

In addition to extending the charitable IRA rollover, the Council on Foundations strongly supports revisions to Internal Revenue Code section 408(d)(8) that would make the provision more

effective. Nonetheless, the Council recognizes that, in view of the current federal budget situation, it may not prove possible in the short term to do more than simply extending the expired provision. However, the Council asks that, in the intermediate term, the Committee give serious consideration to the reforms to section 408(d)(8) proposed in H.R. 2502, “The Public Good IRA Rollover Act of 2011”, introduced by Congressman Herger, Congressman Blumenauer, and others.

H.R. 2502, which the Council also strongly supports, would make section 408(d)(8) permanent, as well as implement important revisions needed to make that provision even more effective. Though the charitable IRA rollover enacted as part of the Pension Protection Act of 2006 was a very important step forward, that provision nonetheless was limited in several respects: it was effective only for a few years; it was limited to taxpayers age 70 ½ or older; the amount of gifts was capped at \$100,000; and donors were specifically not permitted to make charitable rollovers to donor-advised funds, supporting organizations, and private foundations. The “Public Good IRA Rollover Act of 2011” would extend permanently the provision authorizing charitable rollovers of IRAs, and make it more effective by eliminating the \$100,000 cap on rollovers, allowing donors to make rollovers beginning at age 59 ½, and permitting rollovers to donor-advised funds, supporting organizations, and private foundations.

Making the charitable IRA rollover available for gifts to donor-advised funds, supporting organizations, and private foundations will enable additional donors, particularly among middle-income Americans, to utilize charitable rollovers for the benefit of organizations that are particularly well-suited to delivering philanthropic resources quickly and effectively to communities in need.

By expanding the charitable rollover to all philanthropic tools, including donor-advised funds, supporting organizations, and private foundations, charitable giving would increase even more. In

particular, 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.

Studies by the Council on Foundations found that, in 2007, donor-advised funds accounted for over one-third of all community foundation assets and 62% of their total grantmaking. In addition, according to a recent study by the National Philanthropic Trust, the payout rate from donor-advised funds was 17.1% in 2010. Nor was that high payout rate an exception: donor-advised funds have paid out more than 16% of assets annually for at least four years, over three times the minimum required for private foundations by federal law. Donor-advised funds also have experienced tremendous growth. Donors contributed \$7.77 billion to donor-advised funds in 2010, an increase of 25.5% compared with 2009.

The Council also has found that donor-advised funds are a particularly effective tool for middle-income Americans to engage in philanthropy. With most community foundations accepting a donor-advised fund in the range of \$5,000 to \$15,000, donor-advised funds are a philanthropic vehicle that can go to work immediately, a particularly valuable trait given current demands. Because donor-advised funds are so critical to the work of community foundations and to the philanthropic sector generally, it is very important that foundations and donor-advised funds be able to put assets from IRA rollovers to work for their communities.

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, when enacting

section 408(d)(8), Congress identified no basis for limiting charitable IRA rollovers to certain philanthropic vehicles. Moreover, to the extent that such concerns existed, they were fully addressed by reforms relating to supporting organizations and donor-advised funds also enacted as part of the Pension Protection Act.

For all those reasons, the “Public Good Rollover Act of 2011” merits enactment: it will provide philanthropies with valuable additional tools needed to fulfill their missions, and help meet the growing needs of their communities.

In sum, the Council on Foundation urges this Committee, and the Congress, to act promptly to extend the recently expired charitable IRA rollover. The Council also asks that, in the intermediate term, this Committee and the Congress work to enact needed reforms to the charitable IRA rollover by passing H.R. 2502, “The Public Good IRA Rollover Act of 2011”.

Thank you again for this opportunity to present testimony.