Order Code RS22766
December 4, 2007

CRS Report for Congress

Qualified Charitable Distributions from Individual Retirement Accounts: A Fact Sheet

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Summary

A provision of the Pension Protection Act of 2006 allows tax-free distributions from Individual Retirement Accounts (IRAs) for charitable purposes. This fact sheet describes the provision, which expires on December 31, 2007, and lists the bills in the 110th Congress that would extend it. The bills are H.R. 1419, H.R. 3596, H.R. 3970, H.R. 3996, H.R. 4086, S. 819, and S. 2264. This fact sheet will be updated as legislative activity warrants.

Distributions from Individual Retirement Accounts (IRAs) must be included in gross income in the year the distribution occurs, and income taxes must be paid on the taxable portion of the distribution. Section 1201 of the Pension Protection Act of 2006 (P.L. 109-280) allows individuals to exclude from gross income distributions from Individual Retirement Accounts (IRAs) if they are made to a qualified charity.[1] This provision for Qualified Charitable Distributions (QCDs) expires on December 31, 2007. Several legislative proposals in the 110th Congress would extend the provision for one year or two years, or would make the provision permanent.

The features of the QCD are

- Contributions must be from traditional or Roth IRAs. QCDs cannot be made from employer-sponsored IRAs (SEP-IRAs and SIMPLE-IRAs), or from defined contribution retirement plans (for example, 401(k) plans or 403(b) plans).[2]
- Individuals must be older than 70½ when the QCD is made.

[1] See CRS Report RL33703, *Summary of the Pension Protection Act of 2006*, by Patrick Purcell.

[2] A SEP-IRA is a Simplified Employee Pension. These plans were authorized by the Revenue Act of 1978 (P.L. 95-600). A SIMPLE-IRA is a Savings Incentive Match Plan for Employees. These plans were authorized by the Small Business Job Protection Act of 1996 (P.L. 104-188).

- Charities must be eligible to receive tax-deductible charitable contributions.
- The maximum QCD is $100,000, although a spouse can also make a $100,000 QCD if the couple files a joint income tax return.
- The $100,000 maximum QCD does not apply to the overall charitable deduction limit. Thus, individuals may make charitable contributions in excess of 50% of adjusted gross income.
- The distribution must be a trustee-to-trustee transfer; that is, a direct transfer from the IRA to the charity.
- The distribution first comes from taxable funds, then from any nondeductible IRA contributions. Previously, distributions would have been allocated proportionately between deductible and nondeductible contributions.

Legislation in the 110th Congress

The following bills have been introduced in the 110th Congress to extend this provision. One bill, H.R. 3996, has passed the House.

H.R. 3596. Representative Nick Lampson introduced the Charitable Tax Relief Act of 2007 on September 19, 2007. This bill would make the charitable distribution provision permanent.

H.R. 3970. Representative Charles Rangel introduced the Tax Reduction and Reform Act of 2007 on October 25, 2007. This bill would extend the charitable distribution provision until December 31, 2008.

H.R. 3996. Representative Charles Rangel introduced the Temporary Tax Relief Act of 2007 on October 30, 2007. This bill contains a provision that would extend the charitable distribution provision until December 31, 2008. This bill is Representative Rangel's broader tax reform proposal and passed the House 216 - 193 on November 9, 2007.

H.R. 4086. Representative Ron Klein introduced the Healthy Families and Dedicated Teachers Tax Relief Act of 2007 on November 6, 2007. This bill would make the charitable distribution provision permanent.

S. 819/H.R. 1419. Senator Byron Dorgan and Representative Earl Pomeroy introduced identical bills on March 8, 2007. The Public Good IRA Rollover Act of 2007 would make the charitable distribution provision permanent. In addition, the bills would remove the $100,000 tax-free distribution limit, allow contributions to a split-interest entity, and allow these contributions to a split-interest entity to be made tax-free after the age of 59½.

S. 2264. Senator Pat Roberts introduced a bill on October 30, 2007, that would extend the charitable distribution provision until December 31, 2009.