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Qualified Charitable Distributions from Individual Retirement Accounts: A Fact Sheet

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Summary

A provision of the Pension Protection Act of 2006 (P.L. 109-280) allows tax-free distributions from Individual Retirement Accounts (IRAs) for charitable purposes. This fact sheet describes the IRA Qualified Charitable Distribution (QCD) provision. The provision had expired on December 31, 2007; it was extended until December 31, 2009, by H.R. 1424/P.L. 110-343, signed by President George W. Bush on October 3, 2008. In the 111th Congress, the following bills would extend the provision beyond December 31, 2009: H.R. 2435, H.R. 1250, S. 3134, and S. 864.

This fact sheet will be updated as warranted.

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Qualified Charitable Distributions

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 aged 70½ and older 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) had expired on December 31, 2007. P.L. 110-343 extended this provision until December 31, 2009.

The features of the QCD are

- Contributions must be from traditional or Roth IRAs. QCDs cannot be made from employer-sponsored IRAs (Simplified Employee Pensions (SEP-IRAs) and Savings Incentive Match Plan for Employees (SIMPLE-IRAs), or from defined contribution retirement plans (for example, 401(k) plans or 403(b) plans);
- Individuals must be older than 70½ when the QCD is made;
- 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; and
- 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.

The QCD allows taxpayers aged 70½ or older to exclude from their gross income IRA distributions that are transferred directly to a charity. Absent the QCD, some taxpayers could achieve the same result by including the IRA distribution in gross income, donating the distribution to a charity, and taking a tax deduction for the donation. However, taxpayers who do not itemize their tax deductions or whose charitable contributions exceed 50% of their gross income would not benefit, as they do from the QCD.

Legislation in the 111th Congress

As of September 24, 2010, the following legislation has been introduced to extend the QCD provision beyond December 31, 2009.

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

Received Floor Action

H.R. 4213. Representative Charles Rangel introduced the Tax Extenders Act of 2009 on December 7, 2009. Among other provisions, this bill would extend the QCD provision until December 31, 2010. This bill passed the House on December 9, 2009, by a vote of 241-181. The Joint Committee on Taxation estimated that this provision would reduce revenues by $175 million in FY2010 and $187 million in FY2011.[2] The bill, with amendments unrelated to the QCD provision, passed the Senate on March 10, 2010. The House passed an amended version of the Senate bill on May 28, 2010. The Senate dropped the QCD (among other provisions) from the version passed by the Senate on July 21, 2010.[3] The House passed this Senate bill on July 22, 2010, and President Barak Obama signed the bill into law on July 22, 2010 (as P.L. 111-205).

Introduced

H.R. 2435. Representative Suzanne Kosmas introduced the IRA Charitable Giving Act on May 14, 2009. This bill would extend the QCD provision until December 31, 2010.

H.R. 1250 / S. 864. Representative Earl Pomeroy introduced the Public Good IRA Rollover Act of 2009 on March 2, 2009, and Senator Byron Dorgan introduced an identical bill on April 22, 2009. Among other provisions, the Public Good IRA Rollover Act of 2009 would make the charitable distribution provision permanent.

S. 3134. Senator Charles Schumer introduced the Currency Exchange Rate Oversight Reform Act of 2010 on March 17, 2010. Among other provisions, this bill would make the charitable distribution provision permanent.

S. 3793. Senator Max Baucus introduced the Job Creation and Tax Cuts Act of 2010 on September 16, 2010. Among other provisions, this bill would extend the QCD provision until December 31, 2010.

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[2] For further information see JCX-59-09, *Estimated Revenue Effects Of H.R. 4213, The "Tax Extenders Act Of 2009,"* available at http://www.jct.gov/publications.html?func=select&id=17.

[3] All sections of the bill related to the extension of expired tax provisions were dropped from the bill that passed the Senate on July 21, 2010. H.R. 4213 was used to pass an extension of unemployment compensation.