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*Qualified Charitable Distributions from Individual Retirement Accounts: A Fact Sheet*

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October 6, 2008

**Abstract.** 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. The following bills in the 110th Congress would extend the provision for one year, two years, or permanently: H.R. 1419, H.R. 3596, H.R. 3970, H.R. 3996, H.R. 4086, H.R. 6049, S. 819, S. 2264, and S. 2886.

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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. The following bills in the 110<sup>th</sup> Congress would extend the provision for one year, two years, or permanently: H.R. 1419, H.R. 3596, H.R. 3970, H.R. 3996, H.R. 4086, H.R. 6049, S. 819, S. 2264, and S. 2886. This fact sheet will be updated as warranted.

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.<sup>1</sup> 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 110<sup>th</sup> Congress

The following law extends the QCD provision until December 31, 2009.

**P.L. 110-343 (H.R. 1424).** Among other provisions, the Tax Extenders and Alternative Minimum Tax Relief Act of 2008 extends the QCD provision to December 31, 2009. This act was included as part of Emergency Economic Stabilization Act of 2008.

The following bills in the 110<sup>th</sup> Congress would extend the QCD provision for one year, two years, or permanently.

<sup>1</sup> See CRS Report RL33703, *Summary of the Pension Protection Act of 2006*, by Patrick Purcell.

### ***Received Floor Action***

**H.R. 6049.** Representative Charles Rangel introduced H.R. 6049 on May 14, 2008. Among other provisions, the Renewable Energy and Job Creation Act of 2008 would extend the charitable distribution provision until December 31, 2008. On May 21, 2008, H.R. 6049 passed the House by a vote of 263 - 160.

### ***Introduced***

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

**H.R. 3970.** Representative Charles Rangel introduced the Tax Reduction and Reform Act of 2007 on October 25, 2007. Among other provisions, 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. Originally, this bill contained a provision that would have extended the charitable distribution provision until December 31, 2008; however, this provision was dropped from the bill on final passage. The final version of the bill, the Tax Increase Prevention Act of 2007, dealt only with the exemption from the alternative minimum tax and was signed by President Bush on December 26, 2007.

**H.R. 4086.** Representative Ron Klein introduced the Healthy Families and Dedicated Teachers Tax Relief Act of 2007 on November 6, 2007. Among other provisions, 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. Among other provisions, the Public Good IRA Rollover Act of 2007 would make the charitable distribution provision permanent.

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

**S. 2886.** Senator Max Baucus introduced the Alternative Minimum Tax and Extenders Tax Relief Act of 2008 on April 17, 2008. Among other provisions, bill would extend the charitable distribution provision until December 31, 2009.

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