

IRA charitable rollover provision made permanent

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By Richard L. Fox (for Market Watch)

The IRA charitable rollover provision brought about by the Pension Protection Act of 2006 contained in IRC § 408(d)(8), provides an annual exclusion from gross income up to \$100,000 for “qualified charitable distributions” from an IRA, thereby removing the multitude of potential negative tax drawbacks traditionally associated with funding charitable contributions with IRA withdrawals, to the extent of \$100,000 a year. Although the IRA charitable rollover provision was enacted as a temporary charitable giving measure, originally set to expire on Dec. 31, 2007, each time it has been set to expire, Congress has extended the provision, most recently through Dec. 31, 2014, although it has never been made permanent and was not yet extended to the year 2015.

Although taxpayers had been left in the dark during most of 2015 regarding the whether the charitable rollover would once again be extended, now, under the Protecting Americans From Tax Hikes Act of 2015 (“PATH”), which has been passed by Congress and signed into law by the president on Dec. 18, 2015, the IRA charitable rollover provision, which has shifted millions of dollars from IRAs into charity, has been made permanent, retroactive to Jan. 1, 2015. This is welcome news for the philanthropic sector, which has been pushing to make this provision permanent since its inception as a temporary measure, rather than having to rely on the extension of the provision by Congress that generally came very late in the year in which the provision was set to expire, leaving taxpayers in the very unenviable planning position of not knowing whether the provision would be available for most of the year. To tax advantage of the enactment of PATH, individuals desiring to use the IRA charitable rollover provision for 2015 must make distributions on or before Dec. 31, 2015, so the window of opportunity for the tax year 2015 is still very limited.

Facts

Background on IRA charitable rollover provision for donors having reached age 70 1/2: