



ISSUE PAPER

Expand and Extend the IRA Charitable Rollover (H.R. 1250/S. 864)

Position: The Council strongly supports permanently extending the IRA charitable rollover and expanding the provision to remove limitations on the age of donors and the size of the gifts and to permit charitable rollovers to donor-advised funds, supporting organizations, and private foundations.

U.S. House of Representatives

Sponsor:

Earl Pomeroy (D-ND)

Cosponsors: 72 (see reverse)

U.S. Senate

Sponsor:

Byron Dorgan (D-ND)

Cosponsors: 14 (see reverse)

Revenue Estimate

Extension: \$591 million

Expansion: TBD

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 (PPA) 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. However, that provision was limited in several respects: it was effective for gifts made in 2006 and 2007 only; 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.

On October 3, 2008, Congress passed the Emergency Economic Stabilization Act of 2008, which, among other provisions, extended the IRA rollover provisions to apply to transfers occurring in 2008 and 2009. However, that legislation did not remove any of the other limitations on charitable IRA rollovers imposed by the PPA. Present law authorizing charitable IRA rollovers expired December 31, 2009.

Proposal

The Public Good IRA Rollover Act of 2009, introduced as H.R. 1250 in the House of Representatives and S. 864 in the Senate, would permanently extend the charitable IRA rollover incentive, eliminate the \$100,000 cap on rollovers, allow donors to make rollovers beginning at age 59 ½, and permit rollovers to donor-advised funds, supporting organizations, and private foundations.

Rationale

Increase Charitable Giving: The charitable IRA rollover has proven popular with donors, resulting in increased giving from IRA accounts. 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.

Equitable Tax Policy: 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, current law permits charitable IRA rollovers to some types of these entities but not others. Congress identified no basis for excluding charitable IRA rollovers to certain philanthropic vehicles. Concerns that Congress may have had about supporting organizations and donor-advised funds were fully addressed in the reforms enacted as part of the PPA.

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Opposition

Unclear: No clear rationale persists for preventing donors from transferring assets directly from IRA accounts to donor-advised funds, supporting organizations, and private foundations. Some Hill staffers have said that they remain concerned by the lack of a payout requirement for donor-advised funds. However, average payout from donor-advised funds significantly exceeds the minimum payout that is required of private foundations and is proposed for certain Type III supporting organizations.

Status of Legislation

H.R. 1250, introduced by Congressman Earl Pomeroy (D-ND), has 72 cosponsors and S. 864, introduced by Senator Byron Dorgan (D-ND), has 14 cosponsors. Neither bill has passed. However, a different bill, the American Workers, State, and Business Relief Act of 2010 (H.R.4213), has passed in both the House and the Senate and includes a provision extending the IRA to cover gifts made in 2010. There are differences between the House and Senate version, however, so the measure will now go back to the House, for a conference committee between the two chambers to resolve legislative differences. The Council supports the IRA extension contained in this bill and urges lawmakers to resolve the differences quickly, because it only extends the provision through December, 2010. The Council continues to support the provisions in S. 864 and H.R. 1250 that would expand the IRA rollover and make it permanent.

The full list of supporters of S. 864 and H.R. 1250 are as follows:

S.864 Cosponsors

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H.R. 1250 Cosponsors

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Cantor, Eric (R-VA7)	Lance, Leonard (R-NJ7)	Slaughter, Louise (D-NY28)
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Filner, Bob (D-CA51)	Paulsen, Erik (R-MN3)	Wolf, Frank R. (R-VA1)
Fortenberry, Jeffrey (R-NE1)	Payne, Donald M. (D-NJ10)	Young, Don (R-AK At Large)
Fudge, Marcia L. (D-OH11)	Platts, Todd Russell (R-PA19)	
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