msk

ira roll-over extended

attorneys

David Wheeler Newman

practice areas

nonprofit organizations

MSK Client Alert

October 2008

The financial bailout legislation signed by the President on October 3, 2008 included an extension of the charitable IRA rollover that expired at the end of 2007. Unfortunately, the rollover provisions have not been made permanent, but only extended for two more years, retroactive from the beginning of 2008 to the end of 2009.

The original charitable IRA rollover was part of the Pension Protection Act of 2006. The new legislation makes no changes in the original configuration of the charitable IRA rollover. The rollover allows a donor to direct the custodian of his or her IRA to make a distribution from the IRA directly to charity, without the distributed funds being included in the donor's gross income. This is highly advantageous for many donors since the income tax deduction for charitable deductions is limited to a percentage of adjusted gross income, and even those limited deductions are phased out as a donor's AGI increases. Important points to remember include:

- Donors must be age 70 1/2 or older at the time of the distribution to the charity is made

- Distributions must be made directly from the IRA to charity

- Direct distributions to charity are not included in the donor's gross income

- This benefit is limited to distributions not to exceed $100,000 per donor per year

- Each spouse qualifies for their own $100,000 from his or her IRA

- The rollover is for outright gifts only - not for charitable remainder trusts or charitable gift annuities

- Distributions to private foundations, donor advised funds or supporting organizations do not qualify

- The charitable distribution counts towards required minimum distributions

msk.com

los angeles
t 310.312.2000
f 310.312.3100

new york
t 212.509.3900
f 212.509.7239

washington, dc
t 202.355.7900
f 202.355.7899

- IRA rollover distributions may be made to multiple charities, so long as the total is $100,000 or less per year

For further information see the Charitable IRA Rollover Resource Center at www.ncpg.org

msk.com

los angeles
t 310.312.2000
f 310.312.3100

new york
t 212.509.3900
f 212.509.7239

washington, dc
t 202.355.7900
f 202.355.7899