



NEW FEDERAL BILL AUTHORIZES CHARITABLE LIFE-INCOME IRA ROLLOVERS

May 5, 2016

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Trusts & Estates Magazine Website

Conrad Teitell, a Principal in Cummings & Lockwood's Private Clients Group, published an article entitled "New Federal Bill Authorizes Charitable Life-Income IRA Rollovers" which appeared in Trusts & Estates magazine website on May 6, 2016.

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NEW FEDERAL BILL AUTHORIZES CHARITABLE LIFE-INCOME IRA ROLLOVERS

A life-income charitable individual retirement account rollover bill (HR5171) (The Legacy IRA Act) has just been introduced this morning by House Ways and Means Committee members Peter Roskam (R-IL), Earl Blumenauer (D-OR), Erik Paulsen (R-MN) and Pat Tiberi (R-OH). Kevin Cramer (R-ND), a long-time supporter of this legislation, is also a lead cosponsor.

Current Law

Individuals age 70 ½ or older can make direct (outright) gifts from an IRA of up to \$100,000 per year to public charities (other than donor advised funds and supporting organizations) and to private operating and pass-through (conduit) foundations without having to report the IRA distributions as taxable income on their federal income tax returns. Although a charitable deduction isn't allowable, not being taxed on otherwise taxable income is the equivalent of a charitable deduction.

First enacted in 2006, this law was made permanent by the PATH Act of 2015. Direct IRA rollovers have helped American charities feed the hungry as well as provide education, medical services, housing assistance and myriad other services that Americans need.

Legacy IRA Bill

The expansion in the Legacy IRA bill authorizes tax-free IRA rollovers for gifts that benefit charities and provide taxable retirement income—charitable life-income plans—for the donors. At the donor's death, the assets in the plan are owned outright by the qualified charity. Charitable deductions aren't allowable for amounts transferred to the life-income plans (charitable remainder trusts and charitable gift annuities). But not being taxed on otherwise taxable income is the equivalent of a charitable deduction.

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Qualified charities. The same donees authorized for direct outright transfers to charities (see “Current Law,” above).

Annual ceiling on transfers from a donor’s IRA for a life-income plan. It’s \$400,000, for individuals 65 or older. For individuals 70½ or older, the combined ceiling for direct and life-income transfers from their IRAs is \$400,000, with a \$100,000 cap for direct transfers.

Minimal revenue cost to the government. Under the authorized life-income plans, the IRA owners will be taxed on income received at ordinary income tax rates. Because the payouts are 5 percent or more, there generally will be more income paid from the charitable life-income plans than under the normal required minimum distribution (RMD) rules. The only authorized income beneficiaries of the life-income plans are the individual IRA owner, his spouse or both. At death, the assets in the plan go directly to the named qualified charity or charities and not to family members.

Why wouldn’t IRA owners just give outright to charity (direct gifts) from their IRAs as provided under the now permanent law? Many IRA owners want to make charitable gifts, but also need retirement income. The life-income IRA rollover is a way for donors of average resources to combine charitable gifts with retirement income. Many charities have donors “standing by” to make life-income charitable gifts from their IRAs.

This is a middle class charitable IRA rollover. It allows average Americans (who meet the minimum age requirement) to benefit charities.

Four-year trial. The law wouldn’t be permanent but would last for a four-year trial period. That provides adequate time to determine the expansion’s efficacy.

Cost. The bill’s cost is \$106 million over 10 years. This is a small fraction of the money that charities will receive as a result of enactment.

Common Questions and Answers

Here are some common questions that practitioners have expressed about the Legacy IRA Act and my answers.

Minimum payout.

Q. Why is the minimum payout of the life-income plans 5 percent?

A. The minimum 5 percent payout for unitrusts and annuity trusts in the bill has nothing directly to do with the bill. The law has required the 5 percent minimum since 1969, when unitrusts and annuity trusts were first authorized. The minimum payout for gift annuities in the bill is 5 percent, and gift annuity laws don’t require that minimum. It’s important, however, that the 5 percent minimum in the Legacy IRA Act be for gift annuities, as well as unitrusts and annuity trusts.

Reason: The bill was favorably scored (the cost to the Treasury) by the Joint Committee on Taxation based on a 5 percent minimum payout for all three life-income plans. That generally is at least as much as would be required under the RMD rules for IRAs. Thus, the government won’t lose tax dollars if payments are made from the charitable IRA rather than the original IRA.

Caution for life-income IRA gift annuities: A charity should follow the rates that it offers for the usual gift annuities. If 5 percent is greater than the usual rate, the charity shouldn’t enter into an IRA life-income charitable rollover.

Pooled income funds.

Q. Why aren’t pooled income funds included in the bill?

A. Many pooled income funds earn less than 5 percent. Those funds are allowed to only pay income (and can’t pay out principal to make a 5 percent payment).

Assignability of legacy IRA.

Q. Why can't a legacy IRA be assigned to the named charitable remainder organization?

A 1. Policy. In dealings with Congress over many years on the life-income charitable IRA, strong concerns have been expressed on the issue of assignability. If a donor can assign his charitable IRA, it's possible that the donor won't have sufficient retirement income and might have to turn to the government.

A 2. Fiscal. The payments from the charitable life-income rollover will be fully taxable as ordinary income. If the donor assigns his income interest in a life-income charitable rollover to a charity, the government wouldn't get taxable income from the charity as it would if the donor continues to receive the life-income rollover payments.

And the donor could, in effect, increase the current \$100,000 ceiling for direct rollovers to \$400,000 each year.

These issues have come up over the years and most recently in meetings with the staff of the Joint Committee on Taxation.

A favorable score (cost to the government) of the bill of only \$106 million over 10 years wouldn't have been obtained if the life-income IRA beneficiaries could assign their interests to charities. If so assigned, the government would lose taxes on the income because charities are tax- exempt. The score could have been in the billions, rather than \$106 million over 10 years.