
A New Way to Give

On December 18, 2015, President Obama signed into law the Protecting Americans from Tax Hikes Act of 2015 (PATH Act). The bill's name makes it sound like Christmas came early. To the contrary, the package of tax extenders arrived long overdue—emerging from the December 31, 2014, expiration of more than 50 tax breaks.

Better late than never, right? That's debatable given the size and scope of this legislation. On the one hand, PATH permanently codifies and extends major provisions that ensure we may keep more of what we earn. But this \$620 billion tax bill wasn't written for the express purpose of relieving the American taxpayer. Despite positive business expensing and deductibility provisions, PATH preserves wind and solar tax credits, in perpetuity. It also makes the Earned Income Tax Credit (EITC) expansions permanent, thus enshrining additional wealth redistribution into law. Low-income workers would be better served by the removal of government barriers to investment, job creation, and entrepreneurship.

Fortunately for all Americans, PATH acknowledges the virtues of beneficence by permanently extending certain charitable giving incentives. For instance, the bill cements the deduction allowed for charitable contribution of real property for conservation purposes.

It also allows individual retirement account (IRA) owners aged 70^{1/2} and older to transfer up to \$100,000 annually to one or more charities without having to recognize the distribution as income. Donations will now count as part of the IRA owner's required annual withdrawal. Here's how it works: say the owner's required payout is \$20,000 in 2016 and he or she donates half of that to a local school and symphony. Now this



patron only has to withdraw the other \$10,000 from the IRA. While there's no tax deduction for the donation, the IRS doesn't recognize it as income, either. As the Partnership for Philanthropic Planning observes, this lower income helps "charitably minded donors avoid taxes on Social Security benefits, higher Medicare premiums, higher tax brackets, and surtaxes such as the 3.8% net investment income tax." Distributions can be made only from traditional or Roth IRAs.

Despite the popularity and belated permanence of the IRA charitable rollover, the bill leaves room for improvement. The Council on Foundations issued a statement outlining the provision's shortcomings—it's still limited to taxpayers 70^{1/2} or older; the gift amount is capped at \$100,000; and donors are specifically prohibited from making charitable rollovers to donor-advised funds, supporting organizations, and private foundations.

Still, absent an expiration date, donors now have the ability to plan their future IRA-required minimum distribution with the knowledge that the rollover is available. The law is retroactive to January 2015, so it blesses IRA transfers made earlier this year. Gifts for 2015 must have been made by year's end. To qualify for the tax deduction, the donor can't receive any goods or services in return for the rollover gift. Consult your financial adviser to determine if an IRA rollover contribution to the Cato Institute would be advantageous. Distributions should be made directly by your IRA trustee payable to the Cato Institute. ■

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