

New & Notable . . . Giving and Taxes



The IRA Rollover: coming back?

Remember that handy little provision (now expired) that allowed you to make a gift directly from your IRA account to a favorite charity? Well, it may be coming back! The House has already passed a one-year “extender” and the Senate is likely to do so too. Any House/Senate compromise will probably contain the same \$100,000 cap that was found in the original legislation.

Just to be clear, this IRA rollover won’t save you gobs of money, but even small tax savings are welcome. The rollover only facilitates charitable giving rather than offering any new breakthrough deduction. Without the rollover, if you want to fund a gift with IRA dollars, you have to take a distribution from your IRA and include that distribution in income. You then make your gift and claim a charitable deduction on your income tax return. Since charitable deductions are subject to various “percentage” and “clawback” limitations, you may not get to deduct the full amount of your gift.

But with the rollover in place, you are assured of a perfect one-for-one match—at least up to \$100,000. No distribution need be included in income and no charitable deduction need be claimed—since the dollars are rolled directly from your IRA to charity.

Right now the prospects for a one-year extension of this popular provision look good. It would be great if this benefit were made permanent, but that is not in the current legislative cards. We’ll keep you posted on the fate of the likely one-year extension package.

The Estate Tax: not going away anytime soon!

You may also be wondering what is likely to happen with the estate tax. As you are probably aware, prospects for total repeal are dim indeed.

Just to set the stage, bear in mind that right

now, in 2008, we have a \$2,000,000 per person exemption from estate tax. The exemption goes to a fairly generous \$3,500,000 in 2009 and in 2010 the Estate Tax is repealed—but the repeal is effective for one year only. Then, as the law now stands, the Estate Tax comes back with a vengeance in 2011: the per person exemption would be a miserly \$1,000,000 and rates would peak at a prohibitive 55 percent.

Obviously this kaleidoscopic mélange creates an unworkable situation—how can folks plan in the midst of constantly shifting rates and exemption levels? If you are wondering when some semblance of order and sanity is likely to return, you should know that most commentators agree that Congress will hash out a compromise after the elections and before the one-year repeal takes effect.

The compromise could look pretty different depending on who wins the White House. Senator Obama seems to favor a \$3,500,000 exemption and Senator McCain favors a \$5,000,000 exemption. In the past, McCain inclined toward repeal, but, since repeal is no longer politically viable, he now favors relatively generous exemptions and low rates.

Of course, Cato scholars have long backed complete repeal of the estate tax, a tax that mostly serves to tax, for a second time, assets that have already been subjected to income tax. But that is unlikely to happen in the short or intermediate term. But we do promise to keep you informed on whatever compromise Congress ultimately crafts.

If you have questions on estate or gift planning, please contact **Gayllis Ward**, at gward@cato.org or 202.218.4631.