

Bailout Legislation Extends Tax-Free IRA Distributions to Charities Through 2009

October 27, 2008

Originally enacted as part of the Pension Protection Act of 2006, section 408(d)(8) of the Internal Revenue Code (the "Code") provides that individuals who are age 70 1/2 or older can distribute up to \$100,000 of their Individual Retirement Account ("IRA") or Individual Retirement Annuity balance to charitable organizations without recognizing income or taking a charitable deduction. Like many of the Pension Protection Act's tax provisions, Code section 408(d)(8) "sunset" on December 31, 2007. However, as part of its broad extension of certain federal income tax provisions, the Emergency Economic Stabilization Act of 2008 (the "Act") extends this provision through December 31, 2009, thereby allowing individuals to continue making such IRA distributions to charitable organizations on a favorable tax basis through 2008 and 2009.

Taxpayers can take advantage of Code section 408(d)(8) by distributing IRA funds to an organization described in Code section 170(b)(1)(A). These organizations include educational institutions, hospitals and medical research organizations. However, qualified charitable contributions must be made to public charities described in Code section 170(b)(1)(A) and cannot be made to private foundations.

This extension has been applauded by taxpayers who feared that the 2007 sunset date would not be extended. Taxpayers may now plan on continuing to make distributions from their IRAs to charitable organizations through 2008 and 2009. This extension could aid taxpayers in their estate planning and charitable institutions in their fundraising efforts.

For Further Information

If you have a question about this Alert or would like more information, please contact group chair [W. Michael Gradisek](#), [John A. Reade, Jr.](#), [Lawrence I. Davidson](#), any of the other [attorneys](#) in the [Employee Benefits and Executive Compensation Practice Group](#) or the attorney in the firm with whom you are regularly in contact.

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