



TAXATION & WEALTH PLANNING DEPARTMENT

ALERT

CHARITABLE GIVING OPPORTUNITIES UNDER THE TAX RELIEF ACT OF 2010

In December 2010, we issued an alert informing you of the passage of the Tax Relief Unemployment Insurance Reauthorization and Job Creation Act of 2010, which had a wide impact on estate planning strategies. Fox Rothschild attorneys are issuing specific alerts on a number of issues relating to the Act. This is the fifth in the series.

The Tax Relief Act of 2010 contains numerous tax planning opportunities, most of which are accompanied by relatively short expiration dates. The primary charitable giving incentives in the Act have an even shorter shelf life than other provisions, with most expiring at the end of 2011. Accordingly, this year provides an opportune time to fulfill charitable objectives, particularly for individuals with significant assets in an individual retirement account (IRA).

Qualified IRA Charitable Distributions

Under a provision first enacted in the Pension Protection Act of 2006, an individual age 70 ½ or older could make a tax-free donation of up to \$100,000 from his or her IRA to a qualified charity. The provision was initially available for 2006 and 2007 but was subsequently extended through 2009. The Tax Relief Act of 2010 again extends the provision through 2011. Although the legislation was not signed into law until December 17, 2010, taxpayers were permitted to elect to treat a qualified IRA charitable donation made during January 2011 as if it were made on December 31, 2010.

To qualify for tax-free treatment under this rule:

- The charitable contribution must be made from a traditional or Roth IRA. A contribution made from an employer-sponsored qualified retirement plan, a savings incentive match plan for employees IRA or

a simplified employee pension plan will not qualify for this special treatment.

- Payment to the charity must be made by the IRA custodian directly.
- The contribution may be made only to a public charity or private operating foundation. No exclusion is allowed for distributions to donor-advised funds or supporting organizations.

Qualified charitable distributions made under this rule count towards meeting a participant's minimum distribution requirements. If you or the custodian of your IRA have questions about making a qualified charitable distribution this year, please contact us.

Other Charitable Provisions Extended for 2010 and 2011

In addition to extension of the special treatment for qualified IRA charitable distributions, the Tax Relief Act of 2010 extended several other charitable provisions for 2010 and 2011, including:

- **Conservation contributions.** The Act extends through 2011 provisions for increased contribution limits and the carry-forward period for contributions of appreciated real property for conservation purposes. The 30 percent limit for gifts of appreciated property is increased to 50

percent for this year, and the carry-forward period is extended from five years to 15 years.

- **S Corporation.** The Act extends through 2011 the provision allowing S corporation shareholders to take into account their pro rata share of charitable deductions even if the deductions exceed the shareholder's adjusted basis in the corporation.
- **Miscellaneous extenders.** Through 2011, corporations can take advantage of enhanced deductions for gifts of book inventory to public schools or gifts of computer software and equipment to elementary, secondary and post-secondary schools. An enhanced deduction for contributions of food inventory is available for all donors.

The 2010 Act extended several charitable incentives but only through the end of this year. These provisions, and particularly the extension of the ability for taxpayers over age 70 ½ to make tax-favored gifts to charity from an IRA, make this a good time to consider fulfilling some of your charitable objectives.

Please Call Us With Your Questions

We encourage you to contact your relationship lawyer at Fox Rothschild or a member of the firm's Taxation & Wealth Planning Department in the state in which you maintain your permanent residence to discuss the potential impact of the Tax Relief Act of 2010 on your current estate plan and evaluate whether appropriate changes should be made.



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