

# NOT-FOR-PROFIT ORGANIZATIONS

The entire masthead area is available for your personal newsletter title, logo, and/or firm information.



15 Corporate Circle, Albany, NY 12203  
800-525-4237/Fax 518-862-3399

## FOR A LIMITED TIME ONLY

Spring 2007

\$1 billion. That's the amount of money potentially available to charitable organizations, thanks to the IRA charitable rollover provision of the Pension Protection Act of 2006 (PPA). Don't let your organization miss out. Make sure that your development officers understand the ins and outs of rollover gifts so that they can explain this opportunity to donors. The following questions and answers should help.

### What is an IRA charitable rollover?

The IRA charitable rollover provision of PPA provides an annual exclusion from gross income — and, thus, from federal income tax — for “qualified charitable distributions” of up to \$100,000. A qualified charitable distribution is an otherwise taxable distribution made directly from an IRA trustee to a qualified charity in 2006 or 2007.

### Who can make a charitable rollover?

Charitable rollovers can be made by any IRA owner or beneficiary (after the death of the owner) who is age 70½ or older.

### Can a husband and wife each make a charitable rollover?

Yes, as long as they each have an IRA.

### Can the rollover be made to any organization eligible to receive tax-deductible contributions?

Qualified charitable distributions can be made to most public charities. However, they *cannot* be made to donor-advised funds or supporting organizations. Supporting organizations that are considering

changing their status due to other PPA changes (see “A Change in Status,” page two) may want to factor this into their decisions.

“The IRA charitable rollover provision of PPA provides an annual exclusion . . . from federal income tax . . . for ‘qualified charitable distributions’ . . .”

### How can the rollover be executed?

The IRA trustee can make out a check to the qualified charity and mail it to the organization or give the check to the donor to deliver to the organization. The check cannot be made out to the donor and signed over to charity or cashed and, then, contributed. Nor can the donor receive the distribution as an electronic transfer to his or her bank account and write a check for the contribution.

### Is the distribution subject to federal income-tax withholding?

No, the donor is deemed to have elected out of withholding, so the entire distribution amount can go to the charitable organization.

### Do distributions from any type of IRA qualify?

Generally, the exclusion is available for distributions from any traditional IRA or Roth IRA (including deemed IRAs that are maintained as part of an employer-sponsored retirement plan). IRAs set up as part of an ongoing simplified employee pension (SEP) plan or an ongoing savings incentive match plan for employees (SIMPLE) do not qualify.

### Does the charitable distribution count toward the IRA owner's required minimum distribution for the year?

Yes, once an IRA owner reaches age 70½, the owner generally is required to take minimum distributions from his or her

*continued on page 4*

## A CHANGE IN STATUS

New rules governing supporting organizations have made Type III organization status — and to a lesser extent, Type I and Type II status — less attractive. While some supporting organizations are opting to adapt to the changes, others are considering converting to another type of nonprofit. The IRS recently made things easier for organizations considering a switch to regular public charity status.

Very simply, supporting organizations are public charities that provide support to another public charity. Prior to the changes made by the Pension Protection Act of 2006, supporting organizations could operate more like private foundations than like public charities and still qualify for tax-deductible contributions. This is no longer true.

In response to the changes, the IRS has issued procedures for supporting organizations that want to change to regular

public charity status. Under these procedures, an organization can receive a determination letter indicating whether the IRS has accepted or rejected the change without having to pay the usual user fee.

To request the change, the supporting organization must submit a written request for reclassification using the procedure outlined by the IRS.\* The request must include: (1) a statement requesting the reclassification from supporting organization to another public charity status and

(2) either page one and the signature page of the most recently filed Form 990/990-EZ and pages two and three (Parts IV and IV-A) of Schedule A related to Form 990/990-EZ or Form 8734, *Support Schedule for Advance Ruling Period*.

The organization must write “509(a)(3) Pension Protection Act” on the top of the request. ●

\* Revenue Procedure 2006-4, 2006 IRB 135, available at [www.irs.gov/pub/irs-tege/rp2006-4.pdf](http://www.irs.gov/pub/irs-tege/rp2006-4.pdf).

## ARE YOU UP TO SPEED?

To show donors — and themselves — that they are making progress toward their stated missions, some nonprofit organizations have taken a cue from the corporate sector and installed “dashboard” software to measure their performance.

Dashboard software tracks information from all of an organization’s information systems — finance, donor development, human resources, programs, etc. Like the gauges on a car’s dashboard, the software measures various aspects of performance and has warning “lights” that alert staff and management to problems. Using a dashboard can help you determine if everyone in your organization is on the same path toward achieving your organization’s mission and correct any wrong turns that may impede progress.

### Know Your Destination

A first step in using a dashboard is to set guideposts. The guideposts should be

specific, measurable targets the organization wants to hit. For example, rather than setting a general goal of increasing the number of new clients, you might set a goal of serving 100 new clients this year. Without definite guideposts, the dashboard will produce lots of colorful reports and graphs, but you’ll just be spinning your wheels when it comes to solid documentation of your organization’s progress.

### Fueling Up

Of course, an organization can only get out of a dashboard the data it has put in. So, in addition to setting definite guideposts with time frames, you need to have

all of the organization’s information systems integrated into the dashboard. That way, staff won’t have to manually update the dashboard. The dashboard will do it automatically.

A dashboard isn’t for every organization. You’ll want to consider how much it will cost to customize and implement a dashboard to meet your organization’s needs. The costs could exceed the benefits. But, if you think a dashboard could be a good management tool for your organization, give us a call. We can help you explore the possibilities and get headed in the right direction. ●

# THE RULES HAVE CHANGED

Charities that have donor-advised funds need to be aware of new requirements and restrictions ushered in by the Pension Protection Act of 2006 (PPA). Most of these changes are effective for tax years beginning after the date of enactment (August 17, 2006). Below are some details you'll want to know.

## Donor-advised Funds Defined

For the first time, the Internal Revenue Code now contains a definition of "donor-advised fund." A donor-advised fund is a fund or account that is:

- Separately identified by reference to the donor or donors,
- Owned and controlled by a sponsoring organization, and
- For which the donor (or a person appointed by the donor) has, or reasonably expects to have, advisory privileges over distributions from the fund and how the fund's assets are invested by reason of the donor's status as a donor.

The identification requirement can be met by naming the fund after the donor or by having your organization keep records that track contributions from specific donors. Advisory privileges can be shown in two ways: (1) through a written document indicating that the donor or a person identified by the donor may provide advice to your organization regarding fund distributions or investments or (2) by conduct. For example, if a donor regularly provides advice concerning a fund he or she has set up and your organization regularly considers that advice, the donor has advisory privileges.

Donor-advised funds do not include "designated" or "agency" funds that make distributions only to one identified organization or governmental entity — a university endowment fund, for example — even if it's named after the principal donor and the donor has advisory privileges. Nor do donor-advised funds include funds that make travel, study, or similar grants to individuals if: (1) the fund is advised by a committee appointed by the organization sponsoring the fund, (2) that

committee isn't controlled by the donor or persons appointed by the donor, and (3) an objective and nondiscriminatory process that has been approved in advance by the organization and meets the requirements for similar grants by private foundations is used to award grants.

## Grant Restrictions

The new law taxes grants made by donor-advised funds to individuals, to private nonoperating foundations, for noncharitable purposes, to many Type III supporting organizations, or to Type I or II supporting organizations if the donor or an advisor controls the supporting organization.

## Penalties

In what appears to be an effort to encourage more oversight of donor-advised funds by the organizations sponsoring them, PPA provides that a penalty of 125% of any economic benefit to a donor, advisor, or related party (other than an incidental benefit) can be imposed on the person recommending the grant or the person who received the benefit. Fund managers are subject to a 10% penalty if the manager knew the distribution would result in such a prohibited benefit. You will want to notify donors, fund advisors, and related parties about these new penalties.

Also, any grants, loans, compensation, and similar payments from donor-advised funds to donors, advisors, and related parties are considered an excess benefit transaction subject to a penalty of 25% of the amount involved. The amount involved must be repaid to the organization and cannot be redeposited in the donor-advised fund. If this penalty applies, the 125% penalty discussed above does not apply. In addition, the very complicated

excess business holdings rules now apply to donor-advised funds.

## Deducting Contributions

Under the new rules, a donor can claim a charitable deduction for contributions to a donor-advised fund only if the organization sponsoring the fund provides the donor with a contemporaneous written acknowledgment that the organization "has exclusive legal control over the assets contributed." So, if your organization sponsors any donor-advised funds, you should have a procedure in place to provide acknowledgments.

Also, no income-, gift-, or estate-tax charitable deduction is allowed for contributions to donor-advised funds that are sponsored by a Type III supporting organization or by a veterans' organization or fraternal society.

## New Information Required

IRS Form 990 must now include the total number of donor-advised funds sponsored by the filing organization, the aggregate assets held by the funds, the total contributions, and all distributions made by the funds during the year. ●

The general information in this publication is not intended to be nor should it be treated as tax, legal, or accounting advice. Additional issues could exist that would affect the tax treatment of a specific transaction and, therefore, taxpayers should seek advice from an independent tax advisor based on their particular circumstances before acting on any information presented. This information is not intended to be nor can it be used by any taxpayer for the purpose of avoiding tax penalties.

# Affordable Niche Newsletters from Newkirk

**Your personal message in this space.** Half of the back page of every issue is reserved for your firm's message. Use this space to create a self-mailer, announce a seminar, explain a service, or introduce a firm member.

**Your name, your newsletter!** Newkirk offers the utmost flexibility when it comes to your newsletter's masthead. Choose a title you like. You may want to link it to your other marketing materials. Create a masthead you like, or let Newkirk know how you want your masthead to look. Our designers will create a masthead that meets your specifications. Or if you prefer, Newkirk's standard title and masthead design (shown on front) can be combined with your logo and firm information.

**Plus, with Newkirk Niche newsletters, you'll enjoy:**

- Accurate, reliable text
- Exclusive distribution rights in your market
- Printed newsletters and/or electronic articles
- A lower cost than other niche newsletters

**Questions? Call 800-525-4237 (Mon. - Fri. 8 a.m. to 5 p.m. ET)**



**15 Corporate Circle, Albany, NY 12203**  
**800-525-4237/Fax 518-862-3399**

## FOR A LIMITED TIME ONLY *continued from page 1*

IRA based on life expectancy. Failure to take these required minimum distributions results in a tax penalty. The IRS will count the amount of a qualified charitable distribution toward the owner's required minimum distribution for the year.

For example, if a donor is required to take a minimum distribution of \$60,000 from her IRA in 2007 and makes a charitable rollover of \$50,000 to your organization, the donor will have to take an additional distribution of only \$10,000 to meet the minimum distribution requirements.

### **Is the charitable rollover exclusion amount limited to an income "ceiling" as itemized charitable deductions are?**

Unlike deductible charitable contributions, which are generally limited to 50% of a

donor's adjusted gross income, the exclusion isn't subject to any ceiling other than the \$100,000 maximum. So, for example, a donor with \$80,000 of income could exclude a \$100,000 qualified charitable distribution from income and income tax.

### **What happens if a planned charitable rollover fails to qualify?**

If a charitable rollover fails to meet all of the qualification requirements, the distribution will be treated as a distribution from the IRA to the IRA owner and must be included in the owner's gross income for the year. As a result, the owner will be considered to have made a regular charitable contribution to the charity in the amount of the distribution. This contribution would be subject to the income limitation discussed above.

### **Does an IRA trustee have to honor a donor's request to make a charitable rollover?**

No, so development officers should encourage donors to check with their IRA provider before planning to make a charitable rollover. ●

## **Can We Help?**

Our firm offers a broad range of audit, tax information, return preparation, and executive board consulting services to nonprofit organizations. If we can be of service to you, please call.