

Ira Charitable Rollover

The law restores the IRA Charitable Rollover for 2010 and 2011. This portion of the act is retroactive to January 1, 2010, and extends the time for making a 2010 IRA Charitable Rollover gift through January of 2011.

The basic rules for direct transfers from an IRA to a qualified charity are:

1. The IRA owner must be 70½ or older.
2. The transfer must be no more than \$100,000 in any given tax year.
3. The 2010 transfer may qualify for the required minimum distribution.
4. The transfer must be directly to a public charity either outright or for a specific purpose. However, it **may not** be to a donor-advised fund.
5. The transfer must be made directly by the trustee of the IRA to the charitable organization.

If you have ministry partners whom you know to meet these qualifications, you may wish to contact them by phone or e-mail, to make certain that they are aware of this element of the law. Time is of the essence, as the trustee will typically require a period of time to complete the transfer.

Estate Tax Law

The new law establishes the gift, estate and generation skipping tax exemption at \$5 million per person and **\$10 million per couple**. The tax rate for all three taxes will be 35%.

There are two new elements to take into account with this estate tax law:

1. **Portability:** At the death of the first spouse, the executor of the estate may transfer any unused exemption to the surviving spouse without any prior estate planning.

At first glance, this may appear to eliminate the need to plan with the traditional A/B trust as we have in the past, for taxable estates. However,

remember that there are other reasons to incorporate the trust planning, besides tax savings.

- The trust makes it possible to design the estate to provide benefits for the surviving spouse, but to irrevocably designate final beneficiaries of a portion of the estate at the death of the first spouse.
- Because the surviving spouse does not own the assets in the trust, but only has the “use” of those assets, they should also be protected from future litigation and future divorce (should the surviving spouse remarry).

2. Beginning in 2012, the exemption amount will be indexed for cost-of-living adjustment. This provides another reason for trust planning during joint lifetimes, as any unused exemption of the first spouse will not benefit from this inflation adjustment. However, any appreciation of assets in the deceased spouse’s trust will be transferred tax-free.

Gift and Estate Tax Reunification

The gift and estate tax are once again unified with a common \$5 million exemption. Over the past several years, as the estate tax credit equivalency increased, the gift tax exemption remained at \$1 million.

Under the new law, an individual may gift up to \$5 million during lifetime. By so doing, he will have used his standard exemption amount; however, it may be possible to transfer additional assets tax-free at death, based upon the inflation adjustments to the exclusion.