Overview
President Bush signed the Pension Protection Act of 2006 (ACT) into law on Thursday, August 17, 2006 which included an IRA charitable gift provision. This opportunity was extended for two additional years on October 3, 2008. During the rest of 2008 and all of 2009 individuals who are over 70 ½ can make a gift to charity directly from their IRAs. IRA gifts up to $100,000 are not taxable and qualify as all or part of the required minimum distribution.

Previous Law
Any distribution from an IRA or other tax-deferred retirement account is considered taxable income and is subject to tax at ordinary income tax rates unless it is a rollover to another IRA account. Distributions must be made to the account holder, or upon death, to the listed beneficiary of the account. A spouse, children or other individuals may be named as beneficiaries, but the IRA funds are still subject to tax as they are distributed. The only method to avoid tax liability in the account is to name a charitable organization as the beneficiary upon death.

Explanation of Provision
Under the new ACT, individuals may make gifts to charity from their Traditional IRA and Roth IRA accounts without any tax liability if their gifts are ‘qualified charitable distributions.’ No charitable deduction may be taken, but distributions will qualify for all or part of the IRA owner’s required minimum distributions.

Here are the requirements for ‘qualified charitable distributions’
- Gifts are tax-free up to $100,000 per year
- Gifts must be made in 2008 and/or 2009
- IRA holder must be age 70 ½ or older
- Distributions must be made directly to public charities
- Distributions to donor-advised funds or support organizations are not permissible
- Distributions must be an outright gift to the charity
- Distributions may only be made from traditional IRAs or Roth IRAs

Frequently Asked Questions
Can I make a charitable gift from my 401(k) or 403(b) plan?
No, the ACT is restricted to distributions from traditional IRAs and Roth IRAs. Distributions from 401(k), 403(b), SEP, KEOGH and Simple IRA accounts do not qualify. However, it may be possible to rollover your retirement account into a
traditional IRA and then make a distribution from it. Talk with your financial planner or IRA administrator about your rollover options.

**Can I use my IRA to fund a charitable gift annuity or charitable remainder trust?**
No, despite efforts of the charitable community, the ACT does not allow gifts from an IRA to fund a charitable remainder trust or charitable gift annuity. Qualified charitable distributions are limited to outright gifts.

**Will my charitable distribution qualify for my required minimum distribution?**
Yes, your gift will be calculated as part of your required minimum distribution. For individuals who would rather not withdraw funds from their IRAs, the ACT allows them to completely avoid the additional income from their required distributions.

**Do I receive a deduction for my gift?**
No, because the IRA assets haven’t been taxed, no deduction is allowed. To receive a deduction, you would be required to treat the distribution as taxable income first, before taking the deduction. In most cases, it is better not to take the distribution as income.

**Who benefits most from this new Law?**
There are several groups of individuals who will benefit from the charitable rollover.
1. People who normally don’t itemize their deductions can avoid taking the IRA distribution as income and give it directly to charity. It would reduce both their Federal and State income tax liability.
2. Individuals whose IRA distributions increase their income to a level where 85% of their social security is taxed may want to make a qualified charitable distribution to reduce their income to the level where only 50% of social security payments are taxable.
3. Individuals who give over 50% of their income to charity will not be constrained by the 30% and 50% limitations on charitable deductions on gifts from their IRAs. By avoiding the realization of income, they have the equivalent of an unlimited deduction.
4. Individuals in high income brackets and who have large IRAs may have substantial income tax savings not otherwise available because of tax deduction phase-outs and deduction limitations. A qualified charitable distribution up to $100,000 would have the triple benefit of reducing their taxable income, reducing the value of their IRA and meeting their required minimum distribution.

This Fact Sheet is intended for educational purposes and is not professional tax or legal advice; consult a financial professional or tax advisor about your specific situation.

*The charitable community has been working on the passage of a provision that would allow tax-free IRA charitable gifts for many years. Passage of the ACT is seen as a positive opportunity for generous people who have substantial assets in IRAs, even though the ACT is for a limited time and did not include several desired provisions.*