

108TH CONGRESS  
1ST SESSION

# S. 209

To amend the Internal Revenue Code of 1986 to waive the income inclusion on a distribution from an individual retirement account to the extent that the distribution is contributed for charitable purposes.

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## IN THE SENATE OF THE UNITED STATES

JANUARY 23, 2003

Mrs. HUTCHISON (for herself, Mr. DURBIN, Mr. CORNYN, Mr. LEVIN, Mr. DEWINE, Mr. COCHRAN, Mr. FITZGERALD, and Mr. ALLEN) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 to waive the income inclusion on a distribution from an individual retirement account to the extent that the distribution is contributed for charitable purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Charitable IRA Roll-  
5 over Act of 2003”.

1 **SEC. 2. TAX-FREE DISTRIBUTIONS FROM INDIVIDUAL RE-**  
2 **TIREMENT ACCOUNTS FOR CHARITABLE**  
3 **PURPOSES.**

4 (a) IN GENERAL.—Subsection (d) of section 408 of  
5 the Internal Revenue Code of 1986 (relating to individual  
6 retirement accounts) is amended by adding at the end the  
7 following new paragraph:

8 “(8) DISTRIBUTIONS FOR CHARITABLE PUR-  
9 POSES.—

10 “(A) IN GENERAL.—No amount shall be  
11 includible in gross income by reason of a quali-  
12 fied charitable distribution from an individual  
13 retirement account to an organization described  
14 in section 170(c).

15 “(B) SPECIAL RULES RELATING TO CHARI-  
16 TABLE REMAINDER TRUSTS, POOLED INCOME  
17 FUNDS, AND CHARITABLE GIFT ANNUITIES.—

18 “(i) IN GENERAL.—No amount shall  
19 be includible in gross income by reason of  
20 a qualified charitable distribution from an  
21 individual retirement account—

22 “(I) to a charitable remainder  
23 annuity trust or a charitable remain-  
24 der unitrust (as such terms are de-  
25 fined in section 664(d)),

1 “(II) to a pooled income fund (as  
2 defined in section 642(c)(5)), or

3 “(III) for the issuance of a chari-  
4 table gift annuity (as defined in sec-  
5 tion 501(m)(5)).

6 The preceding sentence shall apply only if  
7 no person holds an income interest in the  
8 amounts in the trust, fund, or annuity at-  
9 tributable to such distribution other than  
10 one or more of the following: the individual  
11 for whose benefit such account is main-  
12 tained, the spouse of such individual, or  
13 any organization described in section  
14 170(e).

15 “(ii) DETERMINATION OF INCLUSION  
16 OF AMOUNTS DISTRIBUTED.—In deter-  
17 mining the amount includible in the gross  
18 income of any person by reason of a pay-  
19 ment or distribution from a trust referred  
20 to in clause (i)(I) or a charitable gift annu-  
21 ity (as so defined), the portion of any  
22 qualified charitable distribution to such  
23 trust or for such annuity which would (but  
24 for this subparagraph) have been includible  
25 in gross income—

1                   “(I) shall be treated as income  
2                   described in section 664(b)(1), and

3                   “(II) shall not be treated as an  
4                   investment in the contract.

5                   “(iii) NO INCLUSION FOR DISTRIBUTION TO POOLED INCOME FUND.—No  
6                   amount shall be includible in the gross in-  
7                   come of a pooled income fund (as so de-  
8                   fined) by reason of a qualified charitable  
9                   distribution to such fund.  
10                   distribution to such fund.

11                   “(C) QUALIFIED CHARITABLE DISTRIBUTION.—For purposes of this paragraph, the  
12                   term ‘qualified charitable distribution’ means  
13                   any distribution from an individual retirement  
14                   account—  
15                   account—

16                   “(i) which is made on or after the  
17                   date that the individual for whose benefit  
18                   the account is maintained has attained age  
19                   59½, and

20                   “(ii) which is made directly from the  
21                   account to—

22                   “(I) an organization described in  
23                   section 170(e), or

24                   “(II) a trust, fund, or annuity re-  
25                   ferred to in subparagraph (B).

1           “(D) DENIAL OF DEDUCTION.—The  
2           amount allowable as a deduction under section  
3           170 to the taxpayer for the taxable year shall  
4           be reduced (but not below zero) by the sum of  
5           the amounts of the qualified charitable distribu-  
6           tions during such year which would be includ-  
7           ible in the gross income of the taxpayer for  
8           such year but for this paragraph.”.

9           (b) EFFECTIVE DATE.—The amendment made by  
10          subsection (a) shall apply to taxable years beginning after  
11          the date of the enactment of this Act.

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