

109TH CONGRESS
1ST SESSION

S. 1366

To amend the Internal Revenue Code of 1986 to allow tax-free distributions from individual retirement accounts for charitable purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 30, 2005

Mr. DORGAN (for himself, Ms. SNOWE, Mr. KERRY, Mr. SMITH, and Mr. SCHUMER) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to allow tax-free distributions from individual retirement accounts 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 “Public Good IRA Roll-
5 over Act”.

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.

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

17
 18 “(i) which is made directly by the
 19 trustee—

20 “(I) to an organization described
 21 in section 170(c), or

22 “(II) to a split-interest entity,
 23 and

24 “(ii) which is made on or after the
 25 date that the individual for whose benefit
 26 the account is maintained has attained—

1 “(I) in the case of any distribu-
2 tion described in clause (i)(I), age
3 70¹/₂, and

4 “(II) in the case of any distribu-
5 tion described in clause (i)(II), age
6 59¹/₂.

7 A distribution shall be treated as a qualified
8 charitable distribution only to the extent that
9 the distribution would be includible in gross in-
10 come without regard to subparagraph (A) and,
11 in the case of a distribution to a split-interest
12 entity, only if no person holds an income inter-
13 est in the amounts in the split-interest entity
14 attributable to such distribution other than one
15 or more of the following: the individual for
16 whose benefit such account is maintained, the
17 spouse of such individual, or any organization
18 described in section 170(c).

19 “(C) CONTRIBUTIONS MUST BE OTHER-
20 WISE DEDUCTIBLE.—For purposes of this para-
21 graph—

22 “(i) DIRECT CONTRIBUTIONS.—A dis-
23 tribution to an organization described in
24 section 170(c) shall be treated as a quali-
25 fied charitable distribution only if a deduc-

1 tion for the entire distribution would be al-
2 lowable under section 170 (determined
3 without regard to subsection (b) thereof
4 and this paragraph).

5 “(ii) SPLIT-INTEREST GIFTS.—A dis-
6 tribution to a split-interest entity shall be
7 treated as a qualified charitable distribu-
8 tion only if a deduction for the entire value
9 of the interest in the distribution for the
10 use of an organization described in section
11 170(c) would be allowable under section
12 170 (determined without regard to sub-
13 section (b) thereof and this paragraph).

14 “(D) APPLICATION OF SECTION 72.—Not-
15 withstanding section 72, in determining the ex-
16 tent to which a distribution is a qualified chari-
17 table distribution, the entire amount of the dis-
18 tribution shall be treated as includible in gross
19 income without regard to subparagraph (A) to
20 the extent that such amount does not exceed
21 the aggregate amount which would be so includ-
22 ible if all amounts were distributed from all in-
23 dividual retirement accounts otherwise taken
24 into account in determining the inclusion on
25 such distribution under section 72. Proper ad-

1 justments shall be made in applying section 72
2 to other distributions in such taxable year and
3 subsequent taxable years.

4 “(E) SPECIAL RULES FOR SPLIT-INTEREST
5 ENTITIES.—

6 “(i) CHARITABLE REMAINDER
7 TRUSTS.—Notwithstanding section 664(b),
8 distributions made from a trust described
9 in subparagraph (G)(i) shall be treated as
10 ordinary income in the hands of the bene-
11 ficiary to whom is paid the annuity de-
12 scribed in section 664(d)(1)(A) or the pay-
13 ment described in section 664(d)(2)(A).

14 “(ii) POOLED INCOME FUNDS.—No
15 amount shall be includible in the gross in-
16 come of a pooled income fund (as defined
17 in subparagraph (G)(ii)) by reason of a
18 qualified charitable distribution to such
19 fund, and all distributions from the fund
20 which are attributable to qualified chari-
21 table distributions shall be treated as ordi-
22 nary income to the beneficiary.

23 “(iii) CHARITABLE GIFT ANNU-
24 ITIES.—Qualified charitable distributions
25 made for a charitable gift annuity shall not

1 be treated as an investment in the con-
2 tract.

3 “(F) DENIAL OF DEDUCTION.—Qualified
4 charitable distributions shall not be taken into
5 account in determining the deduction under sec-
6 tion 170.

7 “(G) SPLIT-INTEREST ENTITY DEFINED.—
8 For purposes of this paragraph, the term ‘split-
9 interest entity’ means—

10 “(i) a charitable remainder annuity
11 trust or a charitable remainder unitrust
12 (as such terms are defined in section
13 664(d)) which must be funded exclusively
14 by qualified charitable distributions,

15 “(ii) a pooled income fund (as defined
16 in section 642(c)(5)), but only if the fund
17 accounts separately for amounts attrib-
18 utable to qualified charitable distributions,
19 and

20 “(iii) a charitable gift annuity (as de-
21 fined in section 501(m)(5)).”.

22 (b) EFFECTIVE DATE.—The amendment made by
23 this section shall apply to taxable years beginning after
24 December 31, 2004.

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