

111TH CONGRESS  
1ST SESSION

# S. 864

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

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## IN THE SENATE OF THE UNITED STATES

APRIL 22, 2009

Mr. DORGAN (for himself, Ms. SNOWE, Mr. KERRY, Mr. SCHUMER, Mrs. LINCOLN, Ms. STABENOW, Mr. VOINOVICH, Mr. BURR, Mr. PRYOR, Mr. LEAHY, and Mr. LEVIN) 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 expand 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 of 2009”.

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

4 (a) IN GENERAL.—Paragraph (8) of section 408(d)  
 5 of the Internal Revenue Code of 1986 (relating to tax  
 6 treatment of distributions) is amended to read as follows:

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

9 “(A) IN GENERAL.—No amount shall be  
 10 includible in gross income by reason of a quali-  
 11 fied charitable distribution.

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

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

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

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

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

1 “(I) in the case of any distribu-  
 2 tion described in clause (i)(I), age  
 3 70½, and

4 “(II) in the case of any distribu-  
 5 tion described in clause (i)(II), age  
 6 59½.

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-

tion for the entire distribution would be allowable under section 170 (determined without regard to subsection (b) thereof and this paragraph).

“(ii) SPLIT-INTEREST GIFTS.—A distribution to a split-interest entity shall be treated as a qualified charitable distribution only if a deduction for the entire value of the interest in the distribution for the use of an organization described in section 170(c) would be allowable under section 170 (determined without regard to subsection (b) thereof and this paragraph).

“(D) APPLICATION OF SECTION 72.—Notwithstanding section 72, in determining the extent to which a distribution is a qualified charitable distribution, the entire amount of the distribution shall be treated as includible in gross income without regard to subparagraph (A) to the extent that such amount does not exceed the aggregate amount which would have been so includible if all amounts in all individual retirement plans of the individual were distributed during the taxable year and all such plans were treated as 1 contract for purposes of deter-

1 mining under section 72 the aggregate amount  
 2 which would have been so includible. Proper ad-  
 3 justments shall be made in applying section 72  
 4 to other distributions in such taxable year and  
 5 subsequent taxable years.

6 “(E) SPECIAL RULES FOR SPLIT-INTEREST  
 7 ENTITIES.—

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

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

1                   “(iii) CHARITABLE GIFT ANNU-  
 2 ITIES.—Qualified charitable distributions  
 3 made for a charitable gift annuity shall not  
 4 be treated as an investment in the con-  
 5 tract.

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

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

13                   “(i) a charitable remainder annuity  
 14 trust or a charitable remainder unitrust  
 15 (as such terms are defined in section  
 16 664(d)) which must be funded exclusively  
 17 by qualified charitable distributions,

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

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

1       (b) EFFECTIVE DATE.—The amendment made by  
2 this section shall apply to distributions made in taxable  
3 years beginning after December 31, 2008.

