

WVU Foundation, Inc.
IRA Rollover Gift Administration¹
November 13, 2009

Introduction

The Pension Protection Act of 2006 (PPA) permitted individuals to roll over up to \$100,000 from an individual retirement account (IRA) directly to a qualifying charity without recognizing the assets transferred to the qualifying charity as income. While this provision expired on December 31, 2007, the Emergency Economic Stabilization Act of 2008 (H.R. 1424), enacted on October 3, 2008, extended the IRA charitable rollover provision so that eligible contributions may now be made through December 31, 2009. Note that the new law simply extends the charitable rollover and did not make other substantive changes to the operations of the provision.

Donor Intent

In most cases, IRA rollover gifts will be a transfer from a regular or Roth IRA for the general purposes of the WVU Foundation, Inc. However, it is permissible to make a transfer to a field of interest fund or for a qualified charitable purpose. For example, a transfer from an IRA owner age 71 for a particular scholarship fund is permitted.

IRA Rollovers To Pay Pledges

Since the IRA funds are owned by the IRA owner, they may be used to fulfill a legally-binding pledge. The transfer from the IRA owner to the charity is treated as a receipt of assets followed by a gift from the IRA owner under Sec. 4975(d)(9). Therefore, the IRA rollover is not a prohibited transaction.

IRA Rollover Gifts Not Permitted

There are a number of restrictions on the "qualified charitable distribution" (QCD). The QCD may not be made to a Sec. 509(a)(3) supporting organization or to a donor advised fund described in Sec. 4966(d)(2). Since the rollover is limited to organizations in Sec. 170(b)(1)(A), private foundations are also excluded, with the exception of the conduit private foundation.

The "entire distribution" transferred to the charity must qualify for a Sec. 170 charitable deduction. Sec. 408(d)(8)(C). Therefore, a "quid pro quo" transfer is not permitted. The IRA charitable deduction may not be used to purchase a banquet table for a donor, family and friends at the annual charitable auction or other types of "quid pro quo" gifts.

Preferential Seating Exception

The WVU Foundation, Inc. will provide a donor with the standard acknowledgement for an IRA rollover to an Athletic fund when the donor makes a separate out-of-pocket payment (non-contribution) for the value of rights to priority seating where applicable.

¹ References: *Crescendo Interactive & Council on Foundations*

Charitable Distribution and Reporting

Non-qualifying Charitable Distribution from an IRA

If the donor is under age 70½, the IRA distribution is non-qualifying. The distribution to the WVU Foundation, Inc. is taxable to the donor. However, the donor will qualify for a charitable deduction under Sec. 170.

Qualifying Charitable Distribution from an IRA

A "qualified charitable distribution" (QCD) is not included in taxable income to the donor and consequently there is no income tax deduction. However, the donor must still comply with gift substantiation requirements under Sec. 170(f)(8).

Gift Receipt

The WVU Foundation, Inc. will issue an acknowledgment to the donor for the IRA distribution that is similar to a gift receipt. The front side of the acknowledgement will include: 1) the date of the gift; 2) the name of the IRA custodian; 3) the amount of the gift; and 4) the name of the depositing fund.

The reverse side of the acknowledgement will provide the donor with certain assurances including:

- The WVU Foundation, Inc. received the gift directly from the plan trustee/administrator;
- The WVU Foundation, Inc. is qualified under section 170(b)(1)(A) of the Internal Revenue Code, and the donor gift will not be transferred to a donor advised fund or a supporting organization described in section 509(a)(3).
- No goods or services of any value were transferred to the donor in connection with the gift.

A sample receipt is shown in Exhibit I.



Thank You!

*Private support is playing an increasingly important role in the life of West Virginia University.
Donors may take justifiable pride in the impact their gifts are making at WVU.*

EXHIBIT I

598xxxx
Mr. and Mrs. xxxxxxxxxxxxl
xxxxxxxxxxxxxxxxxxxxx
Charleston, WV 25314-1605

GIFT RECEIPT

Receipt Number:	11718182
Gift Date:	10/28/2009
Donor Name:	Mr. and Mrs. xxxxxxxxxxxxl
Gift Amount:	\$10,000.00
Fund(s):	Fund for WVU

IRA Distribution From MorganStanley SmithBarney

*No Goods or Services were provided in consideration of this contribution.
Please retain this receipt for your tax records.*

Your gift is very important to us! Please take a moment to review the information provided and notify our Donor Relations office of any discrepancies. Our contact information is listed below.



Thank You!

*Private support is playing an increasingly important role in the life of West Virginia University.
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Thank you for your charitable distribution from your Individual Retirement Account (IRA).

Under the provisions of section 1201 of the Pension Protection Act of 2006 as extended by the Emergency Economic Stabilization Act of 2008, an IRA distribution can be qualifying or non-qualifying. A "qualified charitable distribution" from an IRA is not included in taxable income to the donor and consequently there is no income tax deduction.

If a donor is under age 70½, the IRA distribution is non-qualifying. A non-qualifying distribution from an IRA is taxable income to the donor. However, the donor will qualify for a charitable deduction under Sec. 170.

In connection with your charitable distribution, we warrant the following:

- We received your gift directly from your plan trustee/administrator.
- Our organization is qualified under section 170(b)(1)(A) of the Internal Revenue Code, and we are not, nor will your gift be transferred to, a donor advised fund or a supporting organization described in section 509(a)(3).
- No goods or services of any value were or will be transferred to you in connection with this gift.

Please retain this letter with your important tax documents and provide a copy to your tax preparer.

Again, thank you for your generous support.

The WVU Foundation, Inc.