

## USING YOUR IRA FOR 2007 CHARITABLE GIVING

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Recently, a new law made gift giving directly out of individual retirement accounts (“IRA’s”) a reality. Happily, the gift can be in that amount needed to satisfy the IRA annual minimum distribution, which every IRA owner older than 70 ½ is required to make each year. Better still, the IRA amount used does not count as taxable income. But, take note, this option is now only available for gifts made during 2007.

Until this new law, gifts could not be directly distributed from IRAs. Now, and only for the remainder of the year, gifts from IRA’s can be made without tax complications and the distribution is not subject to limitations, if:

- The giver is at least 70 ½ years old (the same time minimum IRA distributions must begin);
- The gift is \$100,000 or less per year;
- The gift is made before the end of 2007;
- The gift is made directly from an IRA or rollover IRA to the charity; and
- The gift is made to a public charity, as defined by IRC as a Sec. 501 C (3) organization (other than private foundations). For example, New Horizon Center for the Developmentally Disabled, LLC is a 501 C (3) charity.

A significant aspect of the new law is the effect that this charitable gift from an Individual Retirement Account, or IRA, will have on the required IRA minimum distribution, or RMD. The RMD is the dollar amount every taxpayer at least 70 ½ years old is required to take out of his or her IRA each year. Every year the bank or broker holding the IRA must inform the IRA owner of the amount of the RMD for that year, and then report the RMD made from the account to the IRS. It is the obligation of the IRA owner to obtain this information from the broker or bank and to withdraw the RMD. For 2007, taxpayers who must take an RMD from their IRA have the choice of making charitable distributions directly from the IRA to satisfy the RMD requirement. The benefits of doing this are significant.

For example, a taxpayer obligated to take a minimum distribution in 2007 of \$15,000 from his or her IRA, chooses to make a \$10,000 gift out of the IRA to a qualified tax exempt charity in 2007. Assuming all of the above requirements are satisfied, the taxpayer would only be obligated to receive a \$5,000 taxable IRA distribution. As a result, only that \$5,000 would be included in his or her taxable income, and subject to income tax. Moreover, the \$10,000 gift will not decrease the taxpayer’s otherwise eligible deductions, or increase the amount of social security subject to tax, as it is never reported to the taxpayer as income. For this reason, the \$10,000 gift made by the taxpayer from his or her IRA gives the taxpayer a greater tax advantage than a \$10,000 donation made otherwise. The \$10,000 would be, in effect, without tax complications and entirely tax free.

Should you have any questions about this article, about planned giving or estate planning in general, or about conservation and other real estate matters, please contact New Horizon's general counsel, David Lynam, at (847) 381-7747.