

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 DISTRIBUTI-  
 13 ON.—For purposes of this paragraph, the  
 14 term ‘qualified charitable distribution’ means  
 15 any distribution from an individual retirement  
 16 account—

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                   70<sup>1</sup>/<sub>2</sub>, and

4                   “(II) in the case of any distribu-  
5                   tion described in clause (i)(II), age  
6                   59<sup>1</sup>/<sub>2</sub>.

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 have been so  
22          includible if all amounts in all individual retire-  
23          ment plans of the individual were distributed  
24          during the taxable year and all such plans were  
25          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.

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