DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

OFFICE OF THE CHIEF COUNSEL

August 20, 2010

Number: **2010-0204**
Release Date: 9/24/2010

CC:ITA:4
GENIN-121838-10

UIL: 61.00-00, 408.03-00

Dear :

I am responding to your request for information about whether a taxpayer is subject to federal income tax if the taxpayer satisfies a personal pledge to a charity with a distribution from an individual retirement arrangement ("IRA").

Specifically, you asked about a situation in which a taxpayer made a legally-enforceable pledge to give money or property to a charitable organization described in § 501(c)(3) of the Internal Revenue Code. Subsequently, the taxpayer satisfied the pledge by making a § 408(d)(8) qualified charitable distribution directly from the taxpayer's IRA to the charity. I hope the following information is helpful.

Section 61 provides that gross income means all income from whatever source derived, unless a specific exception applies.

Section 408(a) provides that the term "individual retirement account" (IRA) means a trust created or organized in the United States for the exclusive benefit of an individual or his beneficiaries if the written governing instrument creating the trust meets specified requirements.

The tax treatment of distributions from an IRA is governed by § 408(d). Section 408(d)(8)(A) provides generally that so much of the aggregate amount of qualified charitable distributions with respect to a taxpayer made during any taxable year which does not exceed $100,000 shall not be includible in gross income of such taxpayer for such taxable year. Section 408(d)(8) does not apply to distributions made in taxable years beginning after December 31, 2009.

Section 408(d)(8)(B) provides that the term "qualified charitable distribution" means any distribution from an IRA (other than a plan described in § 408(k) or § 408(p)) —

(i) which is made directly by the trustee to an organization described in § 170(b)(1)(A) (other than any organization described in § 509(a)(3) or any fund or account described in § 4966(d)(2)), and
(ii) which is made on or after the date that the individual for whose benefit the IRA is maintained has attained age 70½. A distribution shall be treated as a qualified charitable distribution only to the extent that the distribution would be includible in gross income without regard to § 408(d)(8)(A).

Rev. Rul. 55-410, 1955-1 C.B. 297, provides that the satisfaction of a pledge to a charitable organization by means of a donation or gift of property that has either appreciated or depreciated in value does not give rise to a taxable gain or a deductible loss. In effect, Rev. Rul. 55-410 holds that a charitable pledge does not create a debt for federal income tax purposes, and is not a legal obligation for purposes of § 677. Rev. Rul. 64-240, 1964-2 C.B. 172. *See also* Rev. Rul. 57-506, 1957-2 C.B. 65.

Likewise, by analogy, a taxpayer who satisfied a pledge by making a qualified charitable distribution under § 408(d)(8) from his or her IRA directly to a charitable organization would not include the distribution in gross income.

This letter is an "information letter", which calls attention to a well-established interpretation or principle of tax law without applying it to a specific set of facts. It is intended for informational purposes only and does not constitute a ruling. *See* section 2.04 of Rev. Proc. 2010-1, 2010-1 I.R.B. 1, 7.

If you have any additional questions, please contact of this office at .

Sincerely,

Michael J. Montemurro
Branch Chief
Office of Associate Chief Counsel
(Income Tax & Accounting)