CLIFFORD ASSOCIATES
Investment Counselors since 1915

Planned Giving News

THIRD QUARTER 2005

LEGISLATIVE UPDATE

by Ken Dike

TAX RELIEF FOR CHARITABLE TRANSFERS FROM AN IRA 2005

Beginning in April 2003 and again in February 2004 Congress had attempted, but failed, to provide tax relief for donors wishing to transfer assets directly from their IRA to a qualified charity or charitable remainder trust (CRT). The 2005 attempt began when the *Public Good Rollover Act* (H.R.1607) was introduced in the House on April 13, 2005 and the *Care Act of 2005* was reintroduced in the Senate on January 24, 2005 which is currently contained in a larger bill (S.6) that also includes welfare reform and family tax relief measures. The Senate effort continued with the June 30, 2005 introduction of the *Public Good Rollover Act* (S.1366) which has identical language to the House version of the same name (H.R. 1607).

The Sponsors and Co-sponsors of both bills follow:

H.R. 1607

Sponsor: Rep. Wally Herger (CA)
Cosponsors: Rep. Bob Beauprez (CO), Rep. Eric Cantor (VA), Rep. Benjamin Cardin (MD), Rep. Steve Chabot (OH), Rep. Phil English (PA), Rep. Mark Foley (FL), Rep. Melissa Hart (PA), Rep. J. D. Hayworth (AZ), Rep. Peter Hoekstra (MI), Rep. Nancy Johnson (CT), Rep. Sue Kelly (NY), Rep. Ron Lewis (KY), Rep. John Linder (GA), Rep. Thaddeus McCotter (MI), Rep. Cathy McMorris (WA), Rep. Jeff Miller (FL), Rep. Jerry Moran (KS), Rep. Michael Oxley (OH), Rep. Earl Pomeroy (ND), Rep. Jim Ramstad (MN), Rep. Mark Souder (IN), Rep. Lee Terry (NE), Rep. Dave Weldon (FL)

S. 1366

Sponsor: Sen. Byron Dorgan (ND)
Cosponsors: Sen. John Kerry (MA), Sen. John Rockefeller IV (WV), Sen. Charles Schumer (NY), Sen. Gordon Smith (OR), Sen. Olympia Snowe (ME), Sen. Ron Wyden (OR)

As explained in the Second Quarter 2003 and Second Quarter 2004 editions of the Clifford Planned Giving Newsletter, distributions from individual retirement accounts (IRAs) that are given to a charity are included in the gross income of the taxpayer. The taxpayer must claim an itemized deduction on their tax return for the amount given to the charity subject to all the limitations otherwise in force for charitable contributions such as the ceiling of 50% or 30%, (depending on the type of charity) of the donor's adjusted gross income and other limitations on the amount of total itemized deductions allowed.

Both bills (H.R. 1607 and S. 1366) provide for tax-free withdrawals from an IRA that are given directly by the plan trustee to a qualified charity or CRT. For gifts made directly to the charity, the donor must be at least age 70-1/2. For gifts given to a CRT, the donor must be at least age 59-1/2. Since these withdrawals would not be reflected as income to the taxpayer, there is no need for a charitable contribution deduction taken as an itemized deduction.

The House bill has been referred to the House Committee on Ways and Means while the Senate bill is in the Senate Committee on Finance. Most believe the best chance that these bills will be enacted is if they are attached to other legislation and we urge our readers to encourage their legislators to become co-sponsors of the separate but identical rollover bills H.R. 1607 and S. 1366.

KATRINA EMERGENCY TAX RELIEF ACT OF 2005

Legislative Update: On September 23, 2005 President Bush signed the Katrina Emergency Tax Relief Act of 2005. This law provides several benefits aimed at helping those affected by hurricane Katrina. This bill does not include a tax-free IRA charitable rollover provision. Although it was initially included in an earlier draft, it was removed as likely to only peripherally benefit Katrina survivors. §

"MOST BELIEVE THE BEST CHANCE THAT THESE BILLS WILL BE ENACTED IS IF THEY ARE ATTACHED TO OTHER LEGISLATION AND WE URGE OUR READERS TO ENCOURAGE THEIR LEGISLATORS TO BE COME CO-SPONSORS..."

IS THERE A SILVER LINING FOR NON-PROFITS IN THE HOUSING BOOM?

by Jim Fox

There has been a significant difference of opinion as to whether or not the U.S. is in the midst of a housing bubble. While speculation in real estate, just like other investment assets, occurs from time to time, it is difficult to say with certainty that housing prices are irrational. Normally, prices of homes climb roughly along at the same rate of economic growth and inflation. The proponents of the bubble theory point out that, certainly in regions such as New York, Boston, Los Angeles, San Francisco, Florida, and Washington D.C., several years of double digit price increases cannot go on indefinitely.

On Saturday, August 27th, Alan Greenspan spoke at the Kansas City FEDs annual symposium in Jackson, Wyoming. He said, "The housing boom should soon simmer down." He referred to the imbalances associated with valuations and predicted they will unwind. These remarks add substantial credibility to the notion that home prices may be at an extremely high level. Some authorities have noted that high home prices apply not only to primary residences but to many regional pockets where vacation homes are also priced at a high level.

What might trigger an unwinding of these valuation imbalances? Current conditions are supportive of relative stability in the housing market. We have historically low mortgage interest rates. The economy is expanding and employment rates are up—not declining. Nevertheless, we all know economies have their own cycle of expansion and contraction. Economic health is now, more than ever, influenced by conditions elsewhere in our global economy. Significantly higher interest rates or an unexpected slowing of growth leading to an economic contraction could surely stimulate liquidation of second homes or primary homes for that matter, if unemployment became widespread. This prospect of housing market selling pressure could be much worse this go around due to the proliferation of high-risk financing options that have been widely available during the last few years. Subprime buyers have leveraged themselves into homes with little cushion for contingencies. Many new financings are in the form of fixed rates in the short term with adjustable rates for later years. The same holds true for a large number of interest-only mortgages.

Where is the "silver lining" for non-profits? High valuations of real estate create fund-raising opportunities just like high stock prices do. Donors might capture a larger gift value, avoid capital gains taxation, and may reduce possible estate taxes while prices are high. Fund raising professionals have an additional advantage of using various techniques that have been developed over the years to specifically encourage real estate gifts. Many people could be encouraged to donate a residence with a lifetime interest. Charitable remainder trusts designed to flip from paying out net income to paying out a fixed percentage of the market value upon the sale of the underlying property reduce the institution's financial risk.

While we think this is a favorable environment to encourage solicitation of real estate, we encourage our non-profit clients to be cautious. One must use extreme care when preparing a proposal for a life income arrangement. It can take months or years to liquidate real estate, particularly if prices decline. Not only is the holding period expensive to the institution in terms of maintenance, the net funds received on the sale could be substantially less than what was expected at the time the gift was consummated. There can also be out-of-pocket costs associated with preparing the residence for sale. Look to your investment counselor for advice when projecting income and estimating future values. It is critical to avoid promising a high payout on a potentially inflated value. A lower valuation may not support an aggressive income projection. §

IT IS CRITICAL TO AVOID PROMISING A HIGH PAYOUT ON A POTENTIALLY INFLATED VALUE.

WHILE WE THINK THIS IS A FAVORABLE ENVIRONMENT TO ENCOURAGE SOLICITATION OF REAL ESTATE, WE ENCOURAGE OUR NON-PROFIT CLIENTS TO BE CAUTIOUS.

Pasadena 200 S. Los Robles Avenue, Suite 320, Pasadena, California 91101 P 626-792-2228 F 626-792-2670
Huntington Beach 16902 Bolsa Chica Street, Suite 204, Huntington Beach, California 92649 P 714-846-2851 F 714-840-5212
Evergreen P.O. Box 2945, Evergreen, Colorado 80437 P 720-746-1244 F 720-294-9896
www.clifford1915.com