

114TH CONGRESS  
2D SESSION

# S. 2750

To amend the Internal Revenue Code to extend and modify certain charitable tax provisions.

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IN THE SENATE OF THE UNITED STATES

APRIL 6, 2016

Mr. THUNE (for himself and Mr. WYDEN) 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 to extend and modify certain charitable tax provisions.

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 “Charities Helping  
5 Americans Regularly Throughout the Year Act”.

6 **SEC. 2. SENSE OF THE SENATE RELATING TO THE PROTEC-**  
7 **TION OF CHARITABLE DEDUCTIONS.**

8 (a) FINDINGS.—The Senate makes the following  
9 findings:

1           (1) The deduction for charitable contributions  
2 has been an important and effective part of the tax  
3 code for almost 100 years.

4           (2) The deduction for charitable contributions  
5 is unique as it is the only provision that encourages  
6 taxpayers to give away a portion of their income for  
7 the benefit of others.

8           (3) In 2012, nonprofit organizations provided  
9 11,400,000 jobs, accounting for 10.3 percent of the  
10 country's private-sector workforce.

11           (4) In 2014, total charitable giving was esti-  
12 mated to be \$358,380,000,000 (a 7.1-percent in-  
13 crease from 2013) and accounted for 2.1 percent of  
14 the gross domestic product.

15           (b) SENSE OF THE SENATE.—It is the sense of the  
16 Senate that—

17           (1) encouraging charitable giving should be a  
18 goal of tax reform; and

19           (2) Congress should ensure that the value and  
20 scope of the deduction for charitable contributions is  
21 not diminished during a comprehensive rewrite of  
22 the tax code.

1 **SEC. 3. MODIFICATION OF RULES RELATING TO DONOR AD-**  
2 **VISED FUNDS.**

3 (a) ALLOWANCE OF TAX-FREE CHARITABLE DIS-  
4 TRIBUTIONS FROM INDIVIDUAL RETIREMENT AC-  
5 COUNTS.—

6 (1) IN GENERAL.—Clause (i) of section  
7 408(d)(8)(B) of the Internal Revenue Code of 1986  
8 is amended by striking “or any fund or account de-  
9 scribed in section 4966(d)(2)”.

10 (2) EFFECTIVE DATE.—The amendment made  
11 by this subsection shall apply to distributions made  
12 in taxable years beginning after December 31, 2016.

13 (b) RETURN DISCLOSURES.—

14 (1) DISTRIBUTIONS.—Section 6033(k) of the  
15 Internal Revenue Code of 1986 is amended—

16 (A) by striking “and” at the end of para-  
17 graph (2),

18 (B) in paragraph (3)—

19 (i) by inserting “(both in terms of dol-  
20 lar amount and percentage of total value of  
21 assets)” after “taxable year”, and

22 (ii) by striking the period and insert-  
23 ing “, and”, and

24 (C) by adding at the end the following new  
25 paragraph:

1           “(4) the average aggregate contributions to and  
2 grants made from such funds during the most recent  
3 3-taxable-year period.”.

4           (2) POLICY ON INACTIVE FUNDS.—Section  
5 6033(k) of the Internal Revenue Code of 1986, as  
6 amended by paragraph (1), is amended by striking  
7 “and” at the end of paragraph (3), by striking the  
8 period at the end of paragraph (4) and inserting “,  
9 and”, and by adding at the end the following new  
10 paragraph:

11           “(5) provide a description of the organization’s  
12 policy on inactive or dormant funds or, if no such  
13 policy exists, a statement indicating that the organi-  
14 zation has no such policy.”.

15           (3) EFFECTIVE DATE.—The amendments made  
16 by this subsection shall apply to returns for taxable  
17 years beginning after December 31, 2016.

18 **SEC. 4. MODIFICATION OF THE TAX RATE FOR THE EXCISE**  
19 **TAX ON INVESTMENT INCOME OF PRIVATE**  
20 **FOUNDATIONS.**

21           (a) IN GENERAL.—Section 4940(a) of the Internal  
22 Revenue Code of 1986 is amended by striking “2 percent”  
23 and inserting “1 percent”.

24           (b) ELIMINATION OF REDUCED TAX WHERE FOUN-  
25 DATION MEETS CERTAIN DISTRIBUTION REQUIRE-

1 MENTS.—Section 4940 of such Code is amended by strik-  
 2 ing subsection (e).

3 (c) EFFECTIVE DATE.—The amendments made by  
 4 this section shall apply to taxable years beginning after  
 5 the date of the enactment of this Act.

6 **SEC. 5. MANDATORY ELECTRONIC FILING FOR ANNUAL RE-**  
 7 **URNS OF EXEMPT ORGANIZATIONS.**

8 (a) IN GENERAL.—Section 6033 of the Internal Rev-  
 9 enue Code of 1986 is amended by redesignating subsection  
 10 (n) as subsection (o) and by inserting after subsection (m)  
 11 the following new subsection:

12 “(n) MANDATORY ELECTRONIC FILING.—Any orga-  
 13 nization required to file a return under this section shall  
 14 file such return in electronic form.”.

15 (b) INSPECTION OF ELECTRONICALLY FILED AN-  
 16 NUAL RETURNS.—Subsection (b) of section 6104 is  
 17 amended by adding at the end the following: “Any annual  
 18 return required to be filed electronically under section  
 19 6033(n) shall be made available by the Secretary to the  
 20 public in machine readable format as soon as prac-  
 21 ticable.”.

22 (c) EFFECTIVE DATE.—

23 (1) IN GENERAL.—Except as provided in para-  
 24 graph (2), the amendments made by this section

1 shall apply to taxable years beginning after the date  
2 of the enactment of this Act.

3 (2) TRANSITIONAL RELIEF.—

4 (A) SMALL ORGANIZATIONS.—

5 (i) IN GENERAL.—In the case of any  
6 small organizations, or any other organiza-  
7 tions for which the Secretary determines  
8 the application of the amendments made  
9 by subsection (a) would cause undue bur-  
10 den without a delay, the Secretary may  
11 delay the application of such amendments,  
12 but not later than taxable years beginning  
13 2 years after the date of the enactment of  
14 this Act.

15 (ii) SMALL ORGANIZATION.—For pur-  
16 poses of clause (i), the term “small organi-  
17 zation” means any organization—

18 (I) the gross receipts of which for  
19 the taxable year are less than  
20 \$200,000, and

21 (II) the aggregate gross assets of  
22 which at the end of the taxable year  
23 are less than \$500,000.

24 (B) ORGANIZATIONS FILING FORM 990-  
25 T.—In the case of any organization described in

1 section 511(a)(2) of the Internal Revenue Code  
2 of 1986 which is subject to the tax imposed by  
3 section 511(a)(1) of such Code on its unrelated  
4 business taxable income, or any organization re-  
5 quired to file a return under section 6033 of  
6 such Code and include information under sub-  
7 section (e) thereof, the Secretary may delay the  
8 application of the amendments made by this  
9 section, but not later than taxable years begin-  
10 ning 2 years after the date of the enactment of  
11 this Act.

12 **SEC. 6. DETERMINATION OF STANDARD MILEAGE RATE**  
13 **FOR CHARITABLE CONTRIBUTIONS DEDUC-**  
14 **TION.**

15 (a) DETERMINATION OF STANDARD MILEAGE RATE  
16 FOR CHARITABLE CONTRIBUTIONS DEDUCTION.—Sub-  
17 section (i) of section 170 of the Internal Revenue Code  
18 of 1986 is amended to read as follows:

19 “(i) STANDARD MILEAGE RATE FOR USE OF PAS-  
20 Senger Automobile.—For purposes of computing the  
21 deduction under this section for use of a passenger auto-  
22 mobile, the standard mileage rate shall be the rate deter-  
23 mined by the Secretary, which rate shall not be less than  
24 the standard mileage rate used for purposes of section  
25 213.”.

1 (b) EFFECTIVE DATE.—The amendment made by  
 2 this section shall apply to miles traveled after the date  
 3 of the enactment of this Act.

4 **SEC. 7. EXCEPTION FROM PRIVATE FOUNDATION EXCESS**  
 5 **BUSINESS HOLDING TAX FOR CERTAIN PHIL-**  
 6 **ANTHROPIC BUSINESS HOLDINGS.**

7 (a) IN GENERAL.—Section 4943 of the Internal Rev-  
 8 enue Code of 1986 is amended by adding at the end the  
 9 following new subsection:

10 “(g) EXCEPTION FOR CERTAIN PHILANTHROPIC  
 11 BUSINESS HOLDINGS.—

12 “(1) IN GENERAL.—Subsection (a) shall not  
 13 apply with respect to the holdings of a private foun-  
 14 dation in any business enterprise which for the tax-  
 15 able year meets—

16 “(A) the exclusive ownership requirements  
 17 of paragraph (2),

18 “(B) the all profits to charity requirement  
 19 of paragraph (3), and

20 “(C) the independent operation require-  
 21 ments of paragraph (4).

22 “(2) EXCLUSIVE OWNERSHIP.—The exclusive  
 23 ownership requirements of this paragraph are met  
 24 if—



1           “(A) all ownership interests in the business  
2 enterprise are held by the private foundation at  
3 all times during the taxable year, and

4           “(B) all the private foundation’s ownership  
5 interests in the business enterprise were ac-  
6 quired under the terms of a will or trust upon  
7 the death of the testator or settlor, as the case  
8 may be.

9           “(3) ALL PROFITS TO CHARITY.—

10           “(A) IN GENERAL.—The all profits to  
11 charity requirement of this paragraph is met if  
12 the business enterprise, not later than 120 days  
13 after the close of the taxable year, distributes  
14 an amount equal to its net operating income for  
15 such taxable year to the private foundation.

16           “(B) NET OPERATING INCOME.—For pur-  
17 poses of this paragraph, the net operating in-  
18 come of any business enterprise for any taxable  
19 year is an amount equal to the gross income of  
20 the business enterprise for the taxable year, re-  
21 duced by the sum of—

22           “(i) the deductions allowed by chapter  
23 1 for the taxable year which are directly  
24 connected with the production of such in-  
25 come,

1           “(ii) the tax imposed by chapter 1 on  
2           the business enterprise for the taxable  
3           year, and

4           “(iii) an amount for a reasonable re-  
5           serve for working capital and other busi-  
6           ness needs of the business enterprise.

7           “(4) INDEPENDENT OPERATION.—The inde-  
8           pendent operation requirements of this paragraph  
9           are met if, at all times during the taxable year—

10           “(A) no substantial contributor (as defined  
11           in section 4958(c)(3)(C)) to the private founda-  
12           tion, or family member of such a contributor  
13           (determined under section 4958(f)(4)), is a di-  
14           rector, officer, trustee, manager, employee, or  
15           contractor of the business enterprise (or an in-  
16           dividual having powers or responsibilities simi-  
17           lar to any of the foregoing),

18           “(B) at least a majority of the board of di-  
19           rectors of the private foundation are individuals  
20           other than individuals who are either—

21           “(i) directors or officers of the busi-  
22           ness enterprise, or

23           “(ii) members of the family (deter-  
24           mined under section 4958(f)(4)) of a sub-  
25           stantial contributor (as defined in section

1           4958(c)(3)(C)) to the private foundation,  
2           and

3           “(C) there is no loan outstanding from the  
4           business enterprise to a substantial contributor  
5           (as so defined) to the private foundation or a  
6           family member of such contributor (as so deter-  
7           mined).

8           “(5) CERTAIN DEEMED PRIVATE FOUNDATIONS  
9           EXCLUDED.—This subsection shall not apply to—

10           “(A) any fund or organization treated as a  
11           private foundation for purposes of this section  
12           by reason of subsection (e) or (f),

13           “(B) any trust described in section  
14           4947(a)(1) (relating to charitable trusts), and

15           “(C) any trust described in section  
16           4947(a)(2) (relating to split-interest trusts).”.

17           (b) EFFECTIVE DATE.—The amendments made by  
18           this section shall apply to taxable years beginning after  
19           December 31, 2016.

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