

CHARITABLE GIVING EXTENSION ACT

JUNE 26, 2014.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. CAMP, from the Committee on Ways and Means,
submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 3134]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 3134) to amend the Internal Revenue Code of 1986 to allow charitable contributions made by an individual after the close of the taxable year, but before the tax return due date, to be treated as made in such taxable year, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Charitable Giving Extension Act”.

SEC. 2. EXTENSION OF TIME FOR MAKING CHARITABLE CONTRIBUTIONS.

(a) IN GENERAL.—Subsection (a) of section 170 of the Internal Revenue Code of 1986 is amended by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and by inserting after paragraph (1) the following new paragraph:

“(2) TREATMENT OF CHARITABLE CONTRIBUTIONS MADE BY INDIVIDUALS BEFORE DUE DATE OF RETURN.—If any charitable contribution is made by an individual after the close of a taxable year but not later than the due date (determined without regard to extensions) for the return of tax for such taxable year, then the taxpayer may elect to treat such charitable contribution as made in such taxable year. Such election shall be made at such time and in such manner as the Secretary may provide.”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to elections made with respect to taxable years beginning after December 31, 2013.

I. SUMMARY AND BACKGROUND

A. PURPOSE AND SUMMARY

Similar to a provision contained in the discussion draft of the “Tax Reform Act of 2014” released on February 26, 2014, the bill, H.R. 3134, reported by the Committee on Ways and Means, provides that individual taxpayers may deduct charitable contributions made after the close of the taxable year but before the due date of the return (April 15 for most individuals) for the taxable year covered by the return.

B. BACKGROUND AND NEED FOR LEGISLATION

While the Committee continues actively to pursue comprehensive tax reform as a critical means of promoting economic growth and job creation, the Committee also believes that it is important to provide individuals and small businesses permanent, immediate tax relief to encourage faster economic growth and job creation, while fostering charitable giving. Enabling individuals to take charitable deductions in a particular taxable year through the due date for that return (April 15 of the following year for individual taxpayers) is expected to increase charitable giving because many individuals will decide to give more generously at the time they are actually preparing and finalizing their returns. According to testimony received by the Committee, allowing donors to deduct gifts until the filing of a tax return, or April 15, would result in significantly more charitable giving than the cost of the bill—each dollar of additional giving would only cost approximately 20 cents to 40 cents in tax revenues. H.R. 3134, which is similar to a provision contained in the February 26, 2014, discussion draft of the “Tax

Reform Act of 2014,” would expand and simplify the tax rules governing deductible contributions and encourage individual charitable giving that supports the myriad tax-exempt organizations assisting individuals in need, local communities, and the nation overall.

C. LEGISLATIVE HISTORY

Background

H.R. 3134 was introduced on September 19, 2013, and was referred to the Committee on Ways and Means.

Committee action

The Committee on Ways and Means marked up H.R. 3134, the Charitable Giving Extension Act, on May 29, 2014, and ordered the bill, as amended, favorably reported (with a quorum being present).

Committee hearings

The need for permanent rules to allow charitable contributions made by an individual after the close of the taxable year, but before the tax return due date, to be treated as made in such taxable year was discussed at a full Committee hearing on Tax Reform and Charitable Contributions (February 14, 2013).

II. EXPLANATION OF THE BILL

A. EXTENSION OF TIME FOR MAKING CHARITABLE CONTRIBUTIONS (SEC. 170 OF THE CODE)

PRESENT LAW

The Internal Revenue Code allows taxpayers an income tax deduction for contributions to certain organizations, including charities, Federal, State, local and Indian tribal governments, and certain other organizations.

To be deductible, a charitable contribution generally must meet several requirements. First, the recipient of the transfer must be eligible to receive charitable contributions (*i.e.*, an organization or entity described in section 170(c)). Second, the transfer must be made with gratuitous intent and without the expectation of a benefit of substantial economic value in return. Third, the transfer must be complete and generally must be a transfer of a donor’s entire interest in the contributed property (*i.e.*, not a contingent or partial interest contribution). To qualify for a current year charitable deduction, payment of the contribution must be made within the taxable year.¹ Fourth, the transfer must be of money or property—contributions of services are not deductible.² Finally, the transfer must be substantiated and in the proper form.

A charitable deduction generally is claimed on the tax return that is filed for the year in which the contribution is made. The return generally is due by April 15 of the following year, with certain extensions being allowed.

¹Sec. 170(a)(1).

²For example, the value of time spent volunteering for a charitable organization is not deductible. Incidental expenses such as mileage, supplies, or other expenses incurred while volunteering for a charitable organization, however, may be deductible.

REASONS FOR CHANGE

Enabling individuals to take charitable deductions in a particular tax year through the due date for that return (typically April 15 of the following year) is expected to increase charitable giving, because many taxpayers will decide to give more generously at the time they are preparing and finalizing their returns. Therefore, the Committee believes it is appropriate to allow taxpayers to make charitable contributions for a year after the close of the year but before the due date for the return for the year (determined without regard to extensions).

EXPLANATION OF PROVISION

The provision permits individuals to elect to deduct for a taxable year charitable contributions made after the close of that taxable year but not later than the due date (determined without regard to extensions) for the individual's income tax return for that taxable year. Charitable contributions for which an election has been made may not be claimed as a deduction in any other taxable year. The election must be made at such time and in such manner as the Secretary provides. For example, if a calendar year individual makes a charitable contribution on February 15, 2015, the individual may elect to treat the contribution as having been made during 2014. The election must be made at the time of the filing of the 2014 income tax return in the manner prescribed by the Secretary.

EFFECTIVE DATE

The provision applies to elections made with respect to taxable years beginning after December 31, 2013.

III. VOTES OF THE COMMITTEE

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the vote of the Committee on Ways and Means in its consideration of H.R. 3134, the Charitable Giving Extension Act, on May 29, 2014.

The bill, H.R. 3134, was ordered favorably reported as amended by a roll call vote of 23 yeas to 12 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Camp	X	.....	.....	Mr. Levin .....	.....	X	.....
Mr. Johnson	X	.....	.....	Mr. Rangel .....	.....	.....	.....
Mr. Brady	X	.....	.....	Mr. McDermott .....	.....	X	.....
Mr. Ryan	X	.....	.....	Mr. Lewis .....	.....	.....	.....
Mr. Nunes	X	.....	.....	Mr. Neal .....	.....	.....	.....
Mr. Tiberi	X	.....	.....	Mr. Becerra .....	.....	X	.....
Mr. Reichert	X	.....	.....	Mr. Doggett .....	.....	X	.....
Mr. Boustany	X	.....	.....	Mr. Thompson .....	.....	X	.....
Mr. Roskam	X	.....	.....	Mr. Larson .....	.....	X	.....
Mr. Gerlach	X	.....	.....	Mr. Blumenauer .....	.....	X	.....
Mr. Price	X	.....	.....	Mr. Kind .....	.....	X	.....
Mr. Buchanan	X	.....	.....	Mr. Pascrell .....	.....	X	.....
Mr. Smith	X	.....	.....	Mr. Crowley .....	.....	.....	.....
Mr. Schock	X	.....	.....	Ms. Schwartz .....	.....	X	.....
Ms. Jenkins	X	.....	.....	Mr. Davis .....	.....	X	.....
Mr. Paulsen	X	.....	.....	Ms. Sanchez .....	.....	X	.....

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Marchant	X	.....	.....		
Ms. Black	X	.....	.....		
Mr. Reed	X	.....	.....		
Mr. Young	X	.....	.....		
Mr. Kelly	X	.....	.....		
Mr. Griffin	X	.....	.....		
Mr. Renacci	X	.....	.....		

IV. BUDGET EFFECTS OF THE BILL

A. COMMITTEE ESTIMATE OF BUDGETARY EFFECTS

In compliance with clause 3(d) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the effects on the budget of the bill, H.R. 3134, as reported.

The bill, as reported, is estimated to have the following effect on Federal budget receipts for fiscal years 2014–2024:

FISCAL YEARS												
[Millions of Dollars]												
2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2014–19	2014–24
---	-2,195	-52	-80	-72	-71	-72	-70	-62	-76	-72	-2,470	-2,822

B. STATEMENT REGARDING NEW BUDGET AUTHORITY AND TAX EXPENDITURES BUDGET AUTHORITY

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee states that the bill involves no new or increased budget authority. The Committee further states that the revenue-reducing tax provisions involve increased tax expenditures. (See amounts in table in Part IV.A., above.)

C. COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET OFFICE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, requiring a cost estimate prepared by the CBO, the following statement by CBO is provided.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 5, 2014.

Hon. DAVE CAMP,
*Chairman, Committee on Ways and Means,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3134, the Charitable Giving Extension Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Logan Timmerhoff.

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

H.R. 3134—Charitable Giving Extension Act

H.R. 3134 would amend the Internal Revenue Code to permit individuals to deduct for a taxable year charitable contributions made after the close of that taxable year but generally not later than the subsequent April 15, the due date (determined without regard to extensions) for the individual's income tax return for that taxable year. Under current law, a charitable deduction is generally claimed on the tax return for the year in which the contribution is made. Under H.R. 3134, if taxpayers elected to take such deductions for the taxable year before the contribution was made, they could not then deduct the same amounts again in the later year.

The staff of the Joint Committee on Taxation (JCT) estimates that enacting H.R. 3134 would reduce revenues, thus increasing federal budget deficits, by about \$2.8 billion over the 2014–2024 period.

The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending and revenues. Enacting H.R. 3134 would result in revenue losses in each year beginning in 2015. The estimated increases in the deficit are shown in the following table.

JCT has determined that the bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

The CBO staff contact for this estimate is Logan Timmerhoff. The estimate was approved by David Weiner, Assistant Director for Tax Analysis.

CBO ESTIMATE OF PAY-AS-YOU-GO EFFECTS FOR H.R. 3134, AS ORDERED REPORTED BY THE
HOUSE COMMITTEE ON WAYS AND MEANS ON MAY 29, 2014

	by fiscal year, in millions of dollars—														2014– 2019	2014– 2024
	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024					
NET INCREASE IN THE DEFICIT																
Statutory Pay-As-You-Go Effects	0	2,195	52	80	72	71	72	70	62	76	72	2,470	2,822			

Source: Staff of the Joint Committee on Taxation.

D. MACROECONOMIC IMPACT ANALYSIS

In compliance with clause 3(h)(2) of rule XIII of the Rules of the House of Representatives, the following statement is made by the Joint Committee on Taxation with respect to the provisions of the bill amending the Internal Revenue Code of 1986: the effects of the bill on economic activity are so small as to be incalculable within the context of a model of the aggregate economy.

V. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

A. COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives (relating to oversight findings), the Committee advises that it was as a result of the Committee's review of

the provisions of H.R. 3134 that the Committee concluded that it is appropriate to report the bill, as amended, favorably to the House of Representatives with the recommendation that the bill do pass.

B. STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

With respect to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee advises that the bill contains no measure that authorizes funding, so no statement of general performance goals and objectives for which any measure authorizes funding is required.

C. INFORMATION RELATING TO UNFUNDED MANDATES

This information is provided in accordance with section 423 of the Unfunded Mandates Reform Act of 1995 (Pub. L. No. 104-4).

The Committee has determined that the bill does not contain Federal mandates on the private sector. The Committee has determined that the bill does not impose a Federal intergovernmental mandate on State, local, or tribal governments.

D. APPLICABILITY OF HOUSE RULE XXI 5(b)

Rule XXI 5(b) of the Rules of the House of Representatives provides, in part, that “A bill or joint resolution, amendment, or conference report carrying a Federal income tax rate increase may not be considered as passed or agreed to unless so determined by a vote of not less than three-fifths of the Members voting, a quorum being present.” The Committee has carefully reviewed the bill, and states that the bill does not involve any Federal income tax rate increases within the meaning of the rule.

E. TAX COMPLEXITY ANALYSIS

Section 4022(b) of the Internal Revenue Service Restructuring and Reform Act of 1998 (the “IRS Reform Act”) requires the staff of the Joint Committee on Taxation (in consultation with the Internal Revenue Service and the Treasury Department) to provide a tax complexity analysis. The complexity analysis is required for all legislation reported by the Senate Committee on Finance, the House Committee on Ways and Means, or any committee of conference if the legislation includes a provision that directly or indirectly amends the Internal Revenue Code and has widespread applicability to individuals or small businesses.

Pursuant to clause 3(h)(1) of rule XIII of the Rules of the House of Representatives, the staff of the Joint Committee on Taxation has determined that a complexity analysis is not required under section 4022(b) of the IRS Reform Act because the bill contains no provisions that amend the Code and that have “widespread applicability” to individuals or small businesses, within the meaning of the rule.

F. CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

With respect to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee has carefully reviewed the pro-

visions of the bill, and states that the provisions of the bill do not contain any congressional earmarks, limited tax benefits, or limited tariff benefits within the meaning of the rule.

G. DUPLICATION OF FEDERAL PROGRAMS

In compliance with Sec. 3(j)(2) of H. Res. 5 (113th Congress), the Committee states that no provision of the bill establishes or reauthorizes: (1) a program of the Federal Government known to be duplicative of another Federal program, (2) a program included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139, or (3) a program related to a program identified in the most recent Catalog of Federal Domestic Assistance, published pursuant to the Federal Program Information Act (Public Law 95-220, as amended by Public Law 98-169).

H. DISCLOSURE OF DIRECTED RULE MAKINGS

In compliance with Sec. 3(k) of H. Res. 5 (113th Congress), the following statement is made concerning directed rule makings: The Committee estimates that the bill requires no directed rule makings within the meaning of such section.

VI. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

SECTION 170 OF THE INTERNAL REVENUE CODE OF 1986

SEC. 170. CHARITABLE, ETC., CONTRIBUTIONS AND GIFTS.

(a) ALLOWANCE OF DEDUCTION.—

(1) * * *

(2) TREATMENT OF CHARITABLE CONTRIBUTIONS MADE BY INDIVIDUALS BEFORE DUE DATE OF RETURN.—If any charitable contribution is made by an individual after the close of a taxable year but not later than the due date (determined without regard to extensions) for the return of tax for such taxable year, then the taxpayer may elect to treat such charitable contribution as made in such taxable year. Such election shall be made at such time and in such manner as the Secretary may provide.

[(2)] (3) CORPORATIONS ON ACCRUAL BASIS.—In the case of a corporation reporting its taxable income on the accrual basis, if—

(A) * * *

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[(3)] (4) FUTURE INTERESTS IN TANGIBLE PERSONAL PROPERTY.—For purposes of this section, payment of a charitable contribution which consists of a future interest in tangible personal property shall be treated as made only when all intervening interests in, and rights to the actual possession or enjoyment of, the property have expired or are held by persons

other than the taxpayer or those standing in a relationship to the taxpayer described in section 267(b) or 707(b). For purposes of the preceding sentence, a fixture which is intended to be severed from the real property shall be treated as tangible personal property.

* * * * *

VII. DISSENTING VIEWS

The six bills approved by the Republicans at the markup would add \$304 billion to the deficit. Combined with the \$310 billion that the six bills approved by Republicans on the Committee in April added to the deficit, Republicans have added \$614 billion to the deficit in two short months—and there does not appear to be an end in sight. Even though some of these bills were introduced individually with some bipartisan support, the opposition to these bills was based on the position that these tax provisions should not be made permanent by adding to the deficit without any revenue offset.

To put the combined cost (\$614 billion) into context, it is 25 percent more than the entire projected federal deficit this year and \$86 billion more than total non-defense domestic discretionary spending (e.g., medical research, education, veterans' pensions and health care, transportation, etc.) will be in 2014. It is almost seven times what we spend annually on education, job training, and social services. It is ten times more than we spend on veterans. And, it is eleven times more than we spend on medical research and public health.

More specifically, we opposed H.R. 3134 because it would add administrative hurdles to an already burdened tax filing system. One such administrative challenge relates to keeping accurate records of when a taxpayer has claimed a deduction with respect to a charitable contribution made between January 1 and April 15. For example, a calendar year taxpayer making a charitable contribution on March 1, 2015 could claim a deduction with respect to that contribution on the 2014 return or on the 2015 return. And it is entirely possible that the taxpayer could inadvertently claim a deduction twice with respect to the same charitable contribution made during that "extended" time period. Further, there is no concrete evidence that taxpayers are more likely to donate to charities because of the proposed time extension (or less likely to donate absent such time extension) for tax deduction purposes.

We also opposed H.R. 3134 because this bill was not the subject of a hearing by the Committee to debate the merits of this specific policy. This bill would introduce a new tax policy and should have been the subject of debate and consideration in the Committee before being brought to a vote.

The consideration of this bill should be part of comprehensive tax reform. It should not take priority over other reforms for the charitable sector.

Sincerely,

SANDER M. LEVIN,
Ranking Member.

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