

105TH CONGRESS
2D SESSION

H. R. 4865

To allow taxpayers to designate contributions to charity on their return of tax and to establish the Checkoff for Charity Commission to ensure that such contributions are paid to the designated charities.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 20, 1998

Mr. ENGEL (for himself, Mr. HALL of Texas, Mr. MANTON, Mr. TOWNS, Ms. FURSE, Mr. RODRIGUEZ, and Mr. LEWIS of Georgia) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To allow taxpayers to designate contributions to charity on their return of tax and to establish the Checkoff for Charity Commission to ensure that such contributions are paid to the designated charities.

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 “Checkoff for Charity
5 Act of 1998”.

**TITLE I—CHECKOFF FOR
CHARITY**

**SEC. 101. DESIGNATION OF OVERPAYMENTS AND CON-
TRIBUTIONS FOR CHARITY.**

(a) IN GENERAL.—Subchapter A of chapter 61 of the Internal Revenue Code of 1986 is amended by adding at the end the following new part:

**“PART IX—DESIGNATION OF OVERPAYMENTS
AND CONTRIBUTIONS FOR CHARITY**

“Sec. 6097. Designation.

“SEC. 6097. DESIGNATION.

“(a) IN GENERAL.—In the case of an individual, with respect to each taxpayer’s return for the taxable year of the tax imposed by chapter 1, such taxpayer may designate that—

“(1) a specified portion (but not less than \$1) of any overpayment of tax for such taxable year, and

“(2) any cash contribution which the taxpayer includes with such return,

shall be paid to an eligible organization, or for such use as is otherwise provided, under title II of the Checkoff for Charity Act of 1998.

“(b) MANNER AND TIME OF DESIGNATION.—A designation under subsection (a) may be made with respect to any taxable year only at the time of filing the return

1 of the tax imposed by chapter 1 for such taxable year.
 2 Such designation shall be made in such manner as the
 3 Secretary prescribes by regulations except that such des-
 4 ignation shall be made either on the first page of the re-
 5 turn or on the page bearing the taxpayer's signature.

6 “(c) OVERPAYMENTS TREATED AS REFUNDED.—For
 7 purposes of this title, any portion of an overpayment of
 8 tax designated under subsection (a) shall be treated as
 9 being refunded to the taxpayer as of the last date pre-
 10 scribed for filing the return of tax imposed by chapter 1
 11 (determined without regard to extensions) or, if later, the
 12 date the return is filed.”.

13 (b) CLERICAL AMENDMENT.—The table of parts for
 14 subchapter A of chapter 61 of such Code is amended by
 15 adding at the end thereof the following new item:

“Part IX. Designation of overpayments and contributions for
 charity.”.

16 (c) EFFECTIVE DATE.—The amendments made by
 17 this section shall apply to taxable years beginning after
 18 December 31, 1998.

19 **SEC. 102. CHECKOFF FOR CHARITIES TRUST FUND.**

20 (a) IN GENERAL.—Subchapter A of chapter 98 of the
 21 Internal Revenue Code of 1986 (relating to trust fund
 22 code) is amended by adding at the end the following new
 23 section:

1 **“SEC. 9511. CHECKOFF FOR CHARITIES TRUST FUND.**

2 “(a) CREATION OF TRUST FUND.—There is estab-
3 lished in the Treasury of the United States a trust fund
4 to be known as the ‘Checkoff for Charities Trust Fund’,
5 consisting of such amounts as may be appropriated or
6 credited to the Checkoff for Charities Trust Fund as pro-
7 vided in this section or section 9602(b).

8 “(b) TRANSFER TO CHECKOFF FOR CHARITIES
9 TRUST FUND OF AMOUNTS DESIGNATED.—There is here-
10 by appropriated to the Checkoff for Charities Trust Fund
11 amounts equivalent to the amounts designated under sec-
12 tion 6097 and received in the Treasury.

13 “(c) EXPENDITURES FROM TRUST FUND.—

14 “(1) IN GENERAL.—The Secretary shall pay,
15 not less often than quarterly, to the Checkoff for
16 Charities Commission from the Checkoff for Char-
17 ities Trust Fund an amount equal to the amount in
18 such Fund as of the time of such payment less any
19 administrative expenses of the Secretary which may
20 be paid under paragraph (2). Amounts paid under
21 this subsection shall be available only as provided in
22 section 202 of the Checkoff for Charity Act of 1998.

23 “(2) ADMINISTRATIVE EXPENSES.—Amounts in
24 the Checkoff for Charities Trust Fund shall be avail-
25 able to pay the administrative expenses of the Sec-
26 retary of the Treasury directly allocable to—

1 “(A) modifying the individual income tax
2 return forms to carry out section 6097,

3 “(B) carrying out this chapter with respect
4 to such Fund, and

5 “(C) processing amounts received under
6 section 6097 and transferring such amounts to
7 such Fund.”.

8 (b) CLERICAL AMENDMENT.—The table of sections
9 for such subchapter A is amended by adding at the end
10 the following new item:

“Sec. 9511. Checkoff for Charities Trust Fund.”.

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

14 **TITLE II—CHECKOFF FOR** 15 **CHARITY COMMISSION**

16 **SEC. 201. ESTABLISHMENT.**

17 There is established in the Department of Commerce
18 a commission to be known as the “Checkoff for Charity
19 Commission” (hereafter in this title referred to as the
20 “Commission”).

21 **SEC. 202. DUTIES.**

22 (a) IN GENERAL.—The Commission, in consultation
23 with the Secretary of the Treasury, shall make arrange-
24 ments for voluntary charitable, health, and welfare agen-
25 cies that provide or support direct health and welfare serv-

1 ices to individuals or their families to solicit contributions
 2 through designations made on returns of individual in-
 3 come tax. Such arrangements shall—

4 (1) to the extent practicable, be similar to ar-
 5 rangements made by the Office of Personnel Man-
 6 agement with respect to the annual Combined Fed-
 7 eral Campaign; and

8 (2) be limited to the types of organizations
 9 specified in Executive Order 12353 (March 23,
 10 1982), as amended by Executive Order 12404 (Feb-
 11 ruary 10, 1983).

12 (b) AMOUNTS DESIGNATED FOR SPECIFIC ORGANI-
 13 ZATIONS.—The Commission shall ensure that amounts
 14 designated on a return of tax for a specific organization
 15 are paid to that organization not later than 90 days after
 16 the date on which the Commission receives such designa-
 17 tion.

18 (c) AMOUNTS NOT DESIGNATED FOR SPECIFIC OR-
 19 GANIZATIONS.—

20 (1) IN GENERAL.—In the case of amounts des-
 21 ignated as a contribution on a return of tax but not
 22 designated for a specific organization the
 23 Commission—

1 (A) may retain and use not more than one
2 percent of such amounts to carry out this Act,
3 and

4 (B) from the excess of the aggregate of
5 such amounts for a year over the amount re-
6 tained under paragraph (1), shall determine
7 which of the organizations eligible to receive
8 designations for a year under subsection (a) will
9 receive all or a portion of such contribution.

10 (2) CRITERIA FOR SELECTING ORGANIZA-
11 TIONS.—In carrying out paragraph (1)(B), the Com-
12 mission shall use the criteria set forth in Executive
13 Order 12353 (March 23, 1982), as amended by Ex-
14 ecutive Order 12404 (February 10, 1983).

15 **SEC. 203. MEMBERSHIP.**

16 (a) NUMBER AND APPOINTMENT.—The Commission
17 shall be composed of 15 members appointed by the Presi-
18 dent from individuals who are not officers or employees
19 of any organization that receives funding pursuant to this
20 Act. Members on the Commission shall be broadly rep-
21 resentative of the ethnic, religious, majority, and minority
22 groups comprising the United States.

23 (b) WAIVER OF LIMITATION ON EXECUTIVE SCHED-
24 ULE POSITIONS.—Appointments may be made under this

1 section without regard to section 5311(b) of title 5, United
2 States Code.

3 (c) POLITICAL AFFILIATION.—Not more than 8
4 members appointed may be of the same political party.

5 (d) TERMS.—

6 (1) IN GENERAL.—Each member shall be ap-
7 pointed for a term of six years, except as provided
8 in paragraphs (2) and (3).

9 (2) TERMS OF INITIAL APPOINTEES.—As des-
10 ignated by the President at the time of appointment,
11 of the members first appointed—

12 (A) five shall be appointed for terms of two
13 years;

14 (B) five shall be appointed for terms of
15 four years; and

16 (C) five shall be appointed for terms of six
17 years.

18 (3) VACANCIES.—Any member appointed to fill
19 a vacancy occurring before the expiration of the
20 term for which the member's predecessor was ap-
21 pointed shall be appointed only for the remainder of
22 that term. A member may serve after the expiration
23 of that member's term until a successor has taken
24 office.

25 (e) BASIC PAY.—

(2) PROHIBITION OF COMPENSATION OF FEDERAL EMPLOYEES.—Members of the Commission who are full-time officers or employees of the United States may not receive additional pay, allowances, or benefits by reason of their service on the Commission.

9 (f) TRAVEL EXPENSES.—Each member shall receive
10 travel expenses, including per diem in lieu of subsistence,
11 in accordance with sections 5702 and 5703 of title 5,
12 United States Code.

13 (g) QUORUM.—Eight members of the Commission
14 shall constitute a quorum but a lesser number may hold
15 hearings.

(h) CHAIRMAN; VICE CHAIRMAN.—The Chairman and Vice Chairman of the Commission shall be designated by the President at the time of the appointment. The term of office of the Chairman shall be three years.

(i) MEETINGS.—The Commission shall meet at the call of the Chairman or a majority of its members.

22 SEC. 204. DIRECTOR AND STAFF OF COMMISSION; EXPERTS
23 AND CONSULTANTS.

24 (a) DIRECTOR.—The Commission shall, without re-
25 gard to section 5311(b) of title 5, United States Code,

1 have a Director who shall be appointed by Commission.
2 The Director shall be paid at a rate not to exceed the rate
3 of basic pay payable for level V of the Executive Schedule.

4 (b) STAFF.—Subject to rules prescribed by the Com-
5 mission, and without regard to section 5311(b) of title 5,
6 United States Code, the Director may appoint additional
7 personnel as the Director considers appropriate.

8 (c) APPLICABILITY OF CERTAIN CIVIL SERVICE
9 LAWS.—The Director and staff of the Commission shall
10 be appointed subject to the provisions of title 5, United
11 States Code, governing appointments in the competitive
12 service, and shall be paid in accordance with the provisions
13 of chapter 51 and subchapter III of chapter 53 of that
14 title relating to classification and General Schedule pay
15 rates.

16 (d) EXPERTS AND CONSULTANTS.—Subject to rules
17 prescribed by the Commission, the Director may procure
18 temporary and intermittent services under section 3109(b)
19 of title 5, United States Code, but at rates for individuals
20 not to exceed the daily equivalent of the rate of basic pay
21 payable for level V of the Executive Schedule.

22 (e) STAFF OF FEDERAL AGENCIES.—Upon request
23 of the Director, the head of any Federal department or
24 agency may detail, on a reimbursable basis, any of the

1 personnel of that department or agency to the Commission
2 to assist it in carrying out its duties under this Act.

3 **SEC. 205. POWERS OF COMMISSION.**

4 (a) HEARINGS AND SESSIONS.—The Commission
5 may, for the purpose of carrying out this Act, hold hear-
6 ings, sit and act at times and places, take testimony, and
7 receive evidence as the Commission considers appropriate.
8 The Commission may administer oaths or affirmations to
9 witnesses appearing before it.

10 (b) POWERS OF MEMBERS AND AGENTS.—Any mem-
11 ber or agent of the Commission may, if authorized by the
12 Commission, take any action which the Commission is au-
13 thorized to take by this section.

14 (c) OBTAINING OFFICIAL DATA.—The Commission
15 may secure directly from any department or agency of the
16 United States information necessary to enable it to carry
17 out this Act. Upon request of the Chairman or Vice Chair-
18 man of the Commission, the head of that department or
19 agency shall furnish that information to the Commission.

20 (d) GIFTS, BEQUESTS, AND DEVISES.—The Commis-
21 sion may accept, use, and dispose of gifts, bequests, or
22 devises of services or property, both real and personal, for
23 the purpose of aiding or facilitating the work of the Com-
24 mission. Gifts, bequests, or devises of money and proceeds
25 from sales of other property received as gifts, bequests,

1 or devises shall be deposited in the Treasury and shall be
2 available for disbursement upon order of the Chairman.

3 (e) **MAILS.**—The Commission may use the United
4 States mails in the same manner and under the same con-
5 ditions as other departments and agencies of the United
6 States.

7 (f) **ADMINISTRATIVE SUPPORT SERVICES.**—Upon the
8 request of the Commission, the Administrator of General
9 Services shall provide to the Commission, on a reimburs-
10 able basis, the administrative support services necessary
11 for the Commission to carry out its responsibilities under
12 this Act.

13 (g) **SUBPOENA POWER.**—

14 (1) **IN GENERAL.**—The Commission may issue
15 subpoenas requiring the attendance and testimony of
16 witnesses and the production of any evidence relat-
17 ing to any matter under investigation by the Com-
18 mission. The attendance of witnesses and the pro-
19 duction of evidence may be required from any place
20 within the United States at any designated place of
21 hearing within the United States.

22 (2) **FAILURE TO OBEY A SUBPOENA.**—If a per-
23 son refuses to obey a subpoena issued under para-
24 graph (1), the Commission may apply to a United
25 States district court for an order requiring that per-

1 son to appear before the Commission to give testi-
2 mony, produce evidence, or both, relating to the
3 matter under investigation. The application may be
4 made within the judicial district where the hearing
5 is conducted or where that person is found, resides,
6 or transacts business. Any failure to obey the order
7 of the court may be punished by the court as civil
8 contempt.

9 (3) SERVICE OF SUBPOENAS.—The subpoenas
10 of the Commission shall be served in the manner
11 provided for subpoenas issued by a United States
12 district court under the Federal Rules of Civil Pro-
13 cedure for the United States district courts.

14 (4) SERVICE OF PROCESS.—All process of any
15 court to which application is be made under para-
16 graph (2) may be served in the judicial district in
17 which the person required to be served resides or
18 may be found.

19 (h) IMMUNITY.—Except as provided in this sub-
20 section, a person may not be excused from testifying or
21 from producing evidence pursuant to a subpoena on the
22 ground that the testimony or evidence required by the sub-
23 poena may tend to incriminate or subject that person to
24 criminal prosecution. A person, after having claimed the
25 privilege against self-incrimination, may not be criminally

1 prosecuted by reason of any transaction, matter, or thing
2 about which that person is compelled to testify or relating
3 to which that person is compelled to produce evidence, ex-
4 cept that the person may be prosecuted for perjury com-
5 mitted during the testimony or made in the evidence.

6 (i) CONTRACT AUTHORITY.—The Commission may
7 contract with and compensate government and private
8 agencies or persons for property and services, without re-
9 gard to section 3709 of the Revised Statutes (41 U.S.C.
10 5).

11 **SEC. 206. ANNUAL REPORTS.**

12 The Commission shall transmit an annual report to
13 the Secretary of Commerce and the Congress not later
14 than December 31 of each year. Each such report shall
15 contain a detailed statement of activities of the Commis-
16 sion during the fiscal year ending in the year in which
17 such report is required to be submitted.

18 **SEC. 207. AUTHORIZATION OF APPROPRIATIONS.**

19 There are authorized to be appropriated for each of
20 the first two fiscal years beginning after the date of the
21 enactment of this Act such sums as may be necessary for
22 startup costs for the Commission to carry out this Act.

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