

109TH CONGRESS
1ST SESSION

H. R. 2534

To amend the Internal Revenue Code of 1986 to encourage private philanthropy.

IN THE HOUSE OF REPRESENTATIVES

MAY 23, 2005

Mr. DEAL of Georgia introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to encourage private philanthropy.

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 “Personal Philanthropy
5 Account Act of 2005”.

6 **SEC. 2. PERSONAL PHILANTHROPY ACCOUNTS.**

7 (a) IN GENERAL.—Part VII of subchapter B of chap-
8 ter 1 of the Internal Revenue Code of 1986 (relating to
9 additional itemized deductions for individuals) is amended

1 by redesignating section 224 as section 225 and by insert-
2 ing after section 223 the following new section:

3 **“SEC. 224. PERSONAL PHILANTHROPY ACCOUNTS.**

4 “(a) ALLOWANCE OF DEDUCTION.—In the case of an
5 individual, there shall be allowed as a deduction for the
6 taxable year an amount equal to the aggregate amount
7 paid in cash during such taxable year by or on behalf of
8 such individual to a personal philanthropy account of such
9 individual.

10 “(b) PERSONAL PHILANTHROPY ACCOUNT.—For
11 purposes of this section, the term ‘personal philanthropy
12 account’ means a trust created or organized in the United
13 States exclusively for the purpose of making distributions
14 for the charitable purposes designated by an individual
15 who is the account holder of the trust (and designated as
16 an personal philanthropy account at the time created or
17 organized), but only if the written governing instrument
18 creating the trust meets the following requirements:

19 “(1) No contribution will be accepted unless it
20 is in cash.

21 “(2) The trustee is a bank (as defined in sec-
22 tion 408(n)), community foundation, or another per-
23 son who demonstrates to the satisfaction of the Sec-
24 retary that the manner in which that person will ad-
25 minister the trust will be consistent with the require-

1 ments of this section or who has so demonstrated
2 with respect to any personal philanthropy account
3 and who is not disqualified under subsection (f).

4 “(3) No part of the trust assets will be invested
5 in life insurance contracts.

6 “(4) The assets of the trust shall not be com-
7 mingled with other property except in a common
8 trust fund or common investment fund.

9 “(c) DEFINITIONS AND SPECIAL RULES.—For pur-
10 poses of this section—

11 “(1) DEFAULT DISTRIBUTION RULES.—

12 “(A) IN GENERAL.—No account shall be
13 treated as a personal philanthropy account un-
14 less at all times there are in effect qualified de-
15 fault charitable organization designations under
16 subparagraphs (B) and (C).

17 “(B) QUALIFIED DEFAULT CHARITABLE
18 ORGANIZATION DESIGNATION.—For purposes of
19 subparagraph (A), a qualified default charitable
20 organization designation in effect under this
21 subparagraph is the designation by the account
22 holder of an organization to which the remain-
23 der of such account may be made in the form
24 of a qualified philanthropy payment upon the
25 death of the account holder in any case in

1 which the account holder fails to provide by will
2 or other suitable estate document for the dis-
3 tribution of the assets of such account.

4 “(C) TRUSTEE DESIGNATION.—For pur-
5 poses of subparagraph (A), a qualified default
6 charitable organization designation in effect
7 under this subparagraph is the designation by
8 the trustee of the personal philanthropy account
9 of an organization to which a payment under
10 subparagraph (B) will be made if the organiza-
11 tion designated under subparagraph (B) is not
12 qualified to receive a qualified philanthropy
13 payment at the time of such payment.

14 “(2) MINIMUM DISTRIBUTION REQUIRE-
15 MENTS.—

16 “(A) IN GENERAL.—No account shall be
17 treated as a personal philanthropy account for
18 a taxable year unless such account meets the
19 minimum distribution requirements for such
20 taxable year.

21 “(B) MINIMUM DISTRIBUTION REQUIRE-
22 MENT.—An account meets the minimum dis-
23 tribution requirements for a taxable year if the
24 aggregate distributions from the account for the
25 taxable year are not less than 5 percent of the

1 balance of such account as of the last day of
2 the preceding taxable year.

3 “(C) EXCEPTION FOR ACCOUNTS WITH A
4 BALANCE OF LESS THAN \$10,000.—Subpara-
5 graph (A) shall not apply to any account for a
6 taxable year if the balance of such account as
7 of the last day of the preceding taxable year is
8 less than \$10,000.

9 “(3) DENIAL OF DEDUCTION TO DEPEND-
10 ENTS.—No deduction shall be allowed under this
11 section to any individual with respect to whom a de-
12 duction under section 151 is allowable to another
13 taxpayer for a taxable year beginning in the cal-
14 endar year in which such individual’s taxable year
15 begins.

16 “(4) COMMUNITY FOUNDATION.—For purposes
17 of this section, the term ‘community foundation’
18 means a non-sectarian organization—

19 “(A) whose long-term goal is to build per-
20 manent, named component funds established by
21 many separate donors for the broad-based char-
22 itable benefit of the residents of a defined geo-
23 graphic area, and

24 “(B) which—

1 “(i) is described in section 501(c)(3)
2 and exempt from tax under section 501(a),
3 “(ii) is not a private foundation, and
4 “(iii) is not controlled directly or indi-
5 rectly by one or more disqualified persons
6 (as defined in section 4946, determined
7 without regard to subsection (a)(1)(B)
8 thereof).

9 “(d) TAX TREATMENT OF DISTRIBUTIONS.—

10 “(1) IN GENERAL.—Any distribution from a
11 personal philanthropy account shall be includible in
12 the gross income of the account holder in the man-
13 ner as provided in section 72.

14 “(2) QUALIFIED PHILANTHROPY PAYMENTS.—

15 “(A) IN GENERAL.—No amount shall be
16 includible in gross income under paragraph (1)
17 to the extent that such distribution is a quali-
18 fied philanthropy payment.

19 “(B) QUALIFIED PHILANTHROPY PAYMENT
20 DEFINED.—For purposes of this section, the
21 term ‘qualified philanthropy payment’ means a
22 distribution from a personal philanthropy ac-
23 count—

24 “(i) which is made, pursuant to a re-
25 quest by the account holder, by the trustee

1 of the account within 30 days after receipt
2 by the trustee of a certification under sub-
3 paragraph (C), and

4 “(ii) which is paid for a purpose speci-
5 fied in section 170(c).

6 A trustee who fails to meet the 30-day require-
7 ment of clause (i) shall be subject to disquali-
8 fication as a trustee.

9 “(C) ORGANIZATION CERTIFICATION.—For
10 purposes of subparagraph (B)(i), a certification
11 under this subparagraph is a certification by an
12 organization pursuant to a written request by
13 the trustee of a personal philanthropy account
14 that the organization is an organization
15 which—

16 “(i) is described in section 501(c)(3)
17 and exempt from tax under section 501(a),
18 and

19 “(ii) is not a personal philanthropy
20 account.

21 “(D) COORDINATION WITH CHARITABLE
22 CONTRIBUTIONS.—

23 “(i) No deduction shall be allowed
24 under sections 170, 642(c), 2055,
25 2106(a)(2), or 2522 for any amount ex-

1 cluded from gross income under subpara-
2 graph (A),

3 “(ii) under regulations, the amount
4 allowable as a deduction under sections
5 170, 642(e), 2055, 2106(a)(2), or 2522 (as
6 appropriate) for the taxable year (without
7 regard to this clause) shall be reduced by
8 the amount excluded from gross income for
9 the taxable year under subparagraph (A),
10 and

11 “(iii) section 170(d) shall not apply to
12 any amount excluded from gross income
13 under subparagraph (A).

14 “(3) ROLLOVER CONTRIBUTIONS.—

15 “(A) IN GENERAL.—Paragraph (1) shall
16 not apply to any amount paid or distributed
17 from a personal philanthropy account to the ex-
18 tent that the amount received is paid, not later
19 than the 60th day after the date of such pay-
20 ment or distribution, into another personal phi-
21 lanthropy account of the same account holder.
22 The preceding sentence shall not apply to any
23 payment or distribution if it applied to any
24 prior payment or distribution during the 12-

1 month period ending on the date of the pay-
2 ment or distribution.

3 “(B) HEIR.—Paragraph (1) shall not
4 apply to any amount paid or distributed from
5 a personal philanthropy account of a decedent
6 to the extent that the amount received is paid,
7 not later than the 60th day after the date of
8 such payment or distribution, into the personal
9 philanthropy account of an heir of the decedent,
10 as designated by the will of the decedent.

11 “(e) TAX TREATMENT OF ACCOUNT.—

12 “(1) IN GENERAL.—A personal philanthropy
13 account shall be exempt from taxation under this
14 subtitle. Notwithstanding the preceding sentence,
15 the personal philanthropy account shall be subject to
16 the taxes imposed by section 511 (relating to imposi-
17 tion of tax on unrelated business income of chari-
18 table organizations).

19 “(2) ACCOUNT TERMINATIONS.—Rules similar
20 to the rules of paragraphs (2) and (4) of section
21 408(e) shall apply to any personal philanthropy ac-
22 count.

23 “(f) DISQUALIFICATION OF TRUSTEE.—The trustee
24 of a personal philanthropy account shall not be qualified
25 to be a trustee of such account after a final determination

1 by the Secretary that the trustee has disbursed more than
2 10 percent of its payments from personal philanthropy ac-
3 counts to non-qualifying organizations in a calendar year.

4 “(g) REPORTS.—The trustee of a personal philan-
5 thropy account shall make such reports regarding such ac-
6 count to the Secretary and to the holder the account with
7 respect to contributions, distributions, and such other
8 matters as the Secretary may require. The reports re-
9 quired by this subsection shall be filed at such time and
10 in such manner and furnished to such individuals at such
11 time and in such manner as may be required.”.

12 (b) DEDUCTION ALLOWED WHETHER OR NOT INDI-
13 VIDUAL ITEMIZES OTHER DEDUCTIONS.—Subsection (a)
14 of section 62 of such Code is amended by inserting before
15 the flush sentence at the end the following new paragraph:

16 “(21) PERSONAL PHILANTHROPY ACCOUNTS.—
17 The deduction allowed under section 224.”.

18 (c) EXCLUSION FOR EMPLOYER CONTRIBUTIONS TO
19 PERSONAL PHILANTHROPY ACCOUNTS.—

20 (1) IN GENERAL.—Part III of subchapter B of
21 chapter 1 of such Code is amended by inserting
22 after section 139A the following new section:

1 **“SEC. 139B. CONTRIBUTIONS BY EMPLOYER TO PERSONAL**
2 **PHILANTHROPY ACCOUNTS.**

3 “(a) IN GENERAL.—Gross income of an employee
4 does not include contributions by the employer to the per-
5 sonal philanthropy account of the employee.

6 “(b) PERSONAL PHILANTHROPY ACCOUNT.—For
7 purposes of this section, the term ‘personal philanthropy
8 account’ shall have the meaning given to such term by
9 section 224.

10 “(c) EXCLUSION NOT TO EXCEED COMPENSATION.—

11 “(1) EMPLOYEES.—The amount excluded from
12 gross income by subsection (a) with respect to an
13 employee shall not exceed such employee’s wages,
14 salaries, tips, and other employee compensation
15 which are attributable to such employee’s employ-
16 ment by the employer referred to in such subsection.

17 “(2) SELF-EMPLOYED INDIVIDUALS.—The
18 amount excluded from gross income by subsection
19 (a) for contributions with respect to an individual
20 who is self employed shall not exceed such individ-
21 ual’s earned income (as defined in section 401(c)(2))
22 derived by the taxpayer from the trade or business
23 with respect to which the individual is self-employed.

24 “(3) COMMUNITY PROPERTY LAWS NOT TO
25 APPLY.—The limitations under this subsection shall

1 be determined without regard to community prop-
2 erty laws.”.

3 (2) CONFORMING AMENDMENTS.—

4 (A) Section 3121(a) of such Code is
5 amended by striking “or” at the end of para-
6 graph (21), by striking the period at the end of
7 paragraph (22) and inserting “; or ”, and by
8 inserting after paragraph (22) the following
9 new paragraph:

10 “(23) any payment made to a personal philan-
11 thropy account (as defined in section 224) of an em-
12 ployee.”.

13 (B) Section 3231(e) of such Code is
14 amended by adding at the end the following
15 new paragraph:

16 “(13) PERSONAL PHILANTHROPY ACCOUNT
17 CONTRIBUTIONS.—The term ‘compensation’ shall
18 not include any payment made to a personal philan-
19 thropy account (as defined in section 224) of an em-
20 ployee.”.

21 (C) Section 3306(b) of such Code is
22 amended by striking “or” at the end of para-
23 graph (18), by striking the period at the end of
24 paragraph (19) and inserting “; or”, and by in-

1 serting after paragraph (19) the following new
2 paragraph:

3 “(20) any payment made to a personal philan-
4 thropy account (as defined in section 224) of an em-
5 ployee.”.

6 (D) Section 3401(a) of such Code is
7 amended by striking “or” at the end of para-
8 graph (21), by striking the period at the end of
9 paragraph (22) and inserting “; or”, and by in-
10 serting after paragraph (22) the following new
11 paragraph:

12 “(23) any payment made to a personal philan-
13 thropy account (as defined in section 224) of an em-
14 ployee.”.

15 (E) Section 6051(a) of such Code is
16 amended by striking “and” at the end of para-
17 graph (12), by striking the period at the end of
18 paragraph (13) and inserting “, and”, and by
19 inserting after paragraph (13) the following
20 new paragraph:

21 “(14) the amount contributed to any personal
22 philanthropy account (as defined in section 224) of
23 such employee or such employee’s spouse.”.

24 (d) PROHIBITED TRANSACTIONS.—

1 (1) EXCEPTION FOR TAXABLE DISTRIBUTIONS
2 FROM PERSONAL PHILANTHROPY ACCOUNTS.—Sub-
3 section (c) of section 4975 of such Code (defining to
4 prohibited transaction) is amended by adding at the
5 end the following new paragraph:

6 “(7) SPECIAL RULE FOR PERSONAL PHILAN-
7 THROPY ACCOUNTS.—An individual for whose ben-
8 efit a personal philanthropy account is established
9 and any contributor to such account shall be exempt
10 from the tax imposed by this section with respect to
11 any transaction concerning such account (which
12 would otherwise be taxable under this section) if sec-
13 tion 224(d) applies with respect to such trans-
14 action.”.

15 (2) PLAN DEFINED.—Paragraph (1) of section
16 4975(e) of such Code is amended by striking “or”
17 at the end of subparagraph (F), by striking the pe-
18 riod at the end of subparagraph (G) and inserting
19 “, or”, and by inserting after subparagraph (G) the
20 following new subparagraph:

21 “(H) a personal philanthropy account de-
22 scribed in section 224.”.

23 (e) PENALTY ON FAILURE TO REPORT.—Paragraph
24 (2) of section 6693(a) of such Code (relating to provisions)
25 is amended by striking “and” at the end of subparagraph

1 (D), by striking the period at the end of subparagraph
2 (E) and inserting “, and”, and by inserting after subpara-
3 graph (E) the following new subparagraph:

4 “(F) section 224(f) (relating to personal
5 philanthropy accounts).”.

6 (f) CONFORMING AMENDMENT.—Paragraph (2) of
7 section 26(b) of such Code is amended by striking “and”
8 at the end of subparagraph (R), by striking the period
9 at the end of subparagraph (S) and inserting “, and”, and
10 by adding at the end the following new subparagraph:

11 “(T) section 224(d)(3) relating to (relating
12 to additional tax with respect to distributions
13 not used for charitable contribution pur-
14 poses).”.

15 (g) CLERICAL AMENDMENTS.—

16 (1) The table of sections for part VII of sub-
17 chapter B of chapter 1 of such Code is amended by
18 redesignating the item relating to section 224 as an
19 item relating to section 225 and by inserting after
20 the item relating to section 223 the following new
21 item:

“Sec. 224. Personal philanthropy accounts.”.

22 (2) The table of sections for part III of sub-
23 chapter B of chapter 1 of such Code is amended by

1 inserting after the item relating to section 139A the
2 following new item:

“Sec. 139B. Contributions by employer to personal philanthropy accounts.”.

3 (h) **EFFECTIVE DATE.**—The amendments made by
4 this section shall apply to taxable years beginning after
5 December 31, 2004.

○