

111TH CONGRESS
1ST SESSION

S. 405

To amend the Internal Revenue Code of 1986 to provide that a deduction equal to fair market value shall be allowed for charitable contributions of literary, musical, artistic, or scholarly compositions created by the donor.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 10, 2009

Mr. LEAHY (for himself, Mr. BENNETT, Mr. BAYH, Mrs. BOXER, Mr. BROWN, Mr. COCHRAN, Mr. DODD, Mr. DURBIN, Mr. JOHNSON, Mr. KENNEDY, Mr. SANDERS, Mr. SCHUMER, and Mr. WHITEHOUSE) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to provide that a deduction equal to fair market value shall be allowed for charitable contributions of literary, musical, artistic, or scholarly compositions created by the donor.

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 “Artist-Museum Part-
5 nership Act”.

1 **SEC. 2. CHARITABLE CONTRIBUTIONS OF CERTAIN ITEMS**
2 **CREATED BY THE TAXPAYER.**

3 (a) IN GENERAL.—Subsection (e) of section 170 of
4 the Internal Revenue Code of 1986 (relating to certain
5 contributions of ordinary income and capital gain prop-
6 erty) is amended by adding at the end the following new
7 paragraph:

8 “(8) SPECIAL RULE FOR CERTAIN CONTRIBU-
9 TIONS OF LITERARY, MUSICAL, OR ARTISTIC COM-
10 POSITIONS.—

11 “(A) IN GENERAL.—In the case of a quali-
12 fied artistic charitable contribution—

13 “(i) the amount of such contribution
14 shall be the fair market value of the prop-
15 erty contributed (determined at the time of
16 such contribution), and

17 “(ii) no reduction in the amount of
18 such contribution shall be made under
19 paragraph (1).

20 “(B) QUALIFIED ARTISTIC CHARITABLE
21 CONTRIBUTION.—For purposes of this para-
22 graph, the term ‘qualified artistic charitable
23 contribution’ means a charitable contribution of
24 any literary, musical, artistic, or scholarly com-
25 position, or similar property, or the copyright
26 thereon (or both), but only if—

1 “(i) such property was created by the
2 personal efforts of the taxpayer making
3 such contribution no less than 18 months
4 prior to such contribution,

5 “(ii) the taxpayer—

6 “(I) has received a qualified ap-
7 praisal of the fair market value of
8 such property in accordance with the
9 regulations under this section, and

10 “(II) attaches to the taxpayer’s
11 income tax return for the taxable year
12 in which such contribution was made
13 a copy of such appraisal,

14 “(iii) the donee is an organization de-
15 scribed in subsection (b)(1)(A),

16 “(iv) the use of such property by the
17 donee is related to the purpose or function
18 constituting the basis for the donee’s ex-
19 emption under section 501 (or, in the case
20 of a governmental unit, to any purpose or
21 function described under subsection (c)),

22 “(v) the taxpayer receives from the
23 donee a written statement representing
24 that the donee’s use of the property will be

1 in accordance with the provisions of clause
2 (iv), and

3 “(vi) the written appraisal referred to
4 in clause (ii) includes evidence of the ex-
5 tent (if any) to which property created by
6 the personal efforts of the taxpayer and of
7 the same type as the donated property is
8 or has been—

9 “(I) owned, maintained, and dis-
10 played by organizations described in
11 subsection (b)(1)(A), and

12 “(II) sold to or exchanged by
13 persons other than the taxpayer,
14 donee, or any related person (as de-
15 fined in section 465(b)(3)(C)).

16 “(C) MAXIMUM DOLLAR LIMITATION; NO
17 CARRYOVER OF INCREASED DEDUCTION.—The
18 increase in the deduction under this section by
19 reason of this paragraph for any taxable year—

20 “(i) shall not exceed the artistic ad-
21 justed gross income of the taxpayer for
22 such taxable year, and

23 “(ii) shall not be taken into account in
24 determining the amount which may be car-

1 ried from such taxable year under sub-
2 section (d).

3 “(D) ARTISTIC ADJUSTED GROSS IN-
4 COME.—For purposes of this paragraph, the
5 term ‘artistic adjusted gross income’ means
6 that portion of the adjusted gross income of the
7 taxpayer for the taxable year attributable to—

8 “(i) income from the sale or use of
9 property created by the personal efforts of
10 the taxpayer which is of the same type as
11 the donated property, and

12 “(ii) income from teaching, lecturing,
13 performing, or similar activity with respect
14 to property described in clause (i).

15 “(E) PARAGRAPH NOT TO APPLY TO CER-
16 TAIN CONTRIBUTIONS.—Subparagraph (A) shall
17 not apply to any charitable contribution of any
18 letter, memorandum, or similar property which
19 was written, prepared, or produced by or for an
20 individual while the individual is an officer or
21 employee of any person (including any govern-
22 ment agency or instrumentality) unless such
23 letter, memorandum, or similar property is en-
24 tirely personal.

1 “(F) COPYRIGHT TREATED AS SEPARATE
2 PROPERTY FOR PARTIAL INTEREST RULE.—In
3 the case of a qualified artistic charitable con-
4 tribution, the tangible literary, musical, artistic,
5 or scholarly composition, or similar property
6 and the copyright on such work shall be treated
7 as separate properties for purposes of this para-
8 graph and subsection (f)(3).”.

9 (b) EFFECTIVE DATE.—The amendment made by
10 this section shall apply to contributions made after the
11 date of the enactment of this Act in taxable years ending
12 after such date.

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