II

114TH CONGRESS
2D SESSION

S. 2750

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

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

---

A BILL

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Charities Helping Americans Regularly Throughout the Year Act".

SEC. 2. SENSE OF THE SENATE RELATING TO THE PROTECTION OF CHARITABLE DEDUCTIONS.

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

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

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

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

(4) In 2014, total charitable giving was estimated to be $358,380,000,000 (a 7.1-percent increase from 2013) and accounted for 2.1 percent of the gross domestic product.

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

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

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

SEC. 3. MODIFICATION OF RULES RELATING TO DONOR ADVISED FUNDS.

(a) ALLOWANCE OF TAX-FREE CHARITABLE DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT ACCOUNTS.—

(1) IN GENERAL.—Clause (i) of section 408(d)(8)(B) of the Internal Revenue Code of 1986 is amended by striking ‘‘or any fund or account described in section 4966(d)(2)’’.

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

(b) RETURN DISCLOSURES.—

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

(A) by striking ‘‘and’’ at the end of paragraph (2),

(B) in paragraph (3)—

(i) by inserting ‘‘(both in terms of dollar amount and percentage of total value of assets)’’ after ‘‘taxable year’’, and

(ii) by striking the period and inserting ‘‘, and’’, and

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

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

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

"(5) provide a description of the organization's policy on inactive or dormant funds or, if no such policy exists, a statement indicating that the organization has no such policy.".

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

SEC. 4. MODIFICATION OF THE TAX RATE FOR THE EXCISE TAX ON INVESTMENT INCOME OF PRIVATE FOUNDATIONS.

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

(b) ELIMINATION OF REDUCED TAX WHERE FOUNDATION MEETS CERTAIN DISTRIBUTION REQUIRE-

MENTS.—Section 4940 of such Code is amended by striking subsection (e).

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

SEC. 5. MANDATORY ELECTRONIC FILING FOR ANNUAL RETURNS OF EXEMPT ORGANIZATIONS.

(a) IN GENERAL.—Section 6033 of the Internal Revenue Code of 1986 is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

"(n) MANDATORY ELECTRONIC FILING.—Any organization required to file a return under this section shall file such return in electronic form.".

(b) INSPECTION OF ELECTRONICALLY FILED ANNUAL RETURNS.—Subsection (b) of section 6104 is amended by adding at the end the following: "Any annual return required to be filed electronically under section 6033(n) shall be made available by the Secretary to the public in machine readable format as soon as practicable.".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section

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

(2) TRANSITIONAL RELIEF.—

(A) SMALL ORGANIZATIONS.—

(i) IN GENERAL.—In the case of any small organizations, or any other organizations for which the Secretary determines the application of the amendments made by subsection (a) would cause undue burden without a delay, the Secretary may delay the application of such amendments, but not later than taxable years beginning 2 years after the date of the enactment of this Act.

(ii) SMALL ORGANIZATION.—For purposes of clause (i), the term ''small organization'' means any organization—

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

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

(B) ORGANIZATIONS FILING FORM 990–T.—In the case of any organization described in section 511(a)(2) of the Internal Revenue Code of 1986 which is subject to the tax imposed by section 511(a)(1) of such Code on its unrelated business taxable income, or any organization required to file a return under section 6033 of such Code and include information under subsection (e) thereof, the Secretary may delay the application of the amendments made by this section, but not later than taxable years beginning 2 years after the date of the enactment of this Act.

SEC. 6. DETERMINATION OF STANDARD MILEAGE RATE FOR CHARITABLE CONTRIBUTIONS DEDUCTION.

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

"(i) STANDARD MILEAGE RATE FOR USE OF PASSENGER AUTOMOBILE.—For purposes of computing the deduction under this section for use of a passenger automobile, the standard mileage rate shall be the rate determined by the Secretary, which rate shall not be less than the standard mileage rate used for purposes of section 213.".

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

SEC. 7. EXCEPTION FROM PRIVATE FOUNDATION EXCESS BUSINESS HOLDING TAX FOR CERTAIN PHILANTHROPIC BUSINESS HOLDINGS.

(a) IN GENERAL.—Section 4943 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

"(g) EXCEPTION FOR CERTAIN PHILANTHROPIC BUSINESS HOLDINGS.—

"(1) IN GENERAL.—Subsection (a) shall not apply with respect to the holdings of a private foundation in any business enterprise which for the taxable year meets—

"(A) the exclusive ownership requirements of paragraph (2),

"(B) the all profits to charity requirement of paragraph (3), and

"(C) the independent operation requirements of paragraph (4).

"(2) EXCLUSIVE OWNERSHIP.—The exclusive ownership requirements of this paragraph are met if—

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

"(B) all the private foundation's ownership interests in the business enterprise were acquired under the terms of a will or trust upon the death of the testator or settlor, as the case may be.

"(3) ALL PROFITS TO CHARITY.—

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

"(B) NET OPERATING INCOME.—For purposes of this paragraph, the net operating income of any business enterprise for any taxable year is an amount equal to the gross income of the business enterprise for the taxable year, reduced by the sum of—

"(i) the deductions allowed by chapter 1 for the taxable year which are directly connected with the production of such income, “(ii) the tax imposed by chapter 1 on the business enterprise for the taxable year, and

“(iii) an amount for a reasonable reserve for working capital and other business needs of the business enterprise.

“(4) INDEPENDENT OPERATION.—The independent operation requirements of this paragraph are met if, at all times during the taxable year—

“(A) no substantial contributor (as defined in section 4958(c)(3)(C)) to the private foundation, or family member of such a contributor (determined under section 4958(f)(4)), is a director, officer, trustee, manager, employee, or contractor of the business enterprise (or an individual having powers or responsibilities similar to any of the foregoing),

“(B) at least a majority of the board of directors of the private foundation are individuals other than individuals who are either—

“(i) directors or officers of the business enterprise, or

“(ii) members of the family (determined under section 4958(f)(4)) of a substantial contributor (as defined in section

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

"(C) there is no loan outstanding from the business enterprise to a substantial contributor (as so defined) to the private foundation or a family member of such contributor (as so determined).

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

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

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

"(C) any trust described in section 4947(a)(2) (relating to split-interest trusts).".

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

○