

110TH CONGRESS
2^D SESSION

H. R. 7083

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 29 (legislative day, SEPTEMBER 17), 2008

Received

AN ACT

To amend the Internal Revenue Code of 1986 to enhance charitable giving and improve disclosure and tax administration.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE, ETC.**

2 (a) **SHORT TITLE.**—This Act may be cited as the
3 “Charity Enhancement Act of 2008”.

4 (b) **AMENDMENT OF 1986 CODE.**—Except as other-
5 wise expressly provided, whenever in this Act an amend-
6 ment or repeal is expressed in terms of an amendment
7 to, or repeal of, a section or other provision, the reference
8 shall be considered to be made to a section or other provi-
9 sion of the Internal Revenue Code of 1986.

10 (c) **TABLE OF CONTENTS.**—The table of contents for
11 this Act is as follows:

Sec. 1. Short title, etc.

Sec. 2. Funds advised by certain public charities and governmental entities not
treated as donor advised funds.

Sec. 3. Certain scholarship distributions from donor advised funds not treated
as taxable distributions.

Sec. 4. Repeal of special written acknowledgment requirement for charitable
contributions to donor advised funds.

Sec. 5. Reasonable compensation paid by supporting organizations to substan-
tial contributors not treated as an excess benefit.

Sec. 6. Exception from holdings and payout requirements for longstanding,
fully funded type III supporting organizations.

Sec. 7. Contributions by Indian tribal governments treated same as contribu-
tions by States.

Sec. 8. Electronic filing of exempt organization annual returns.

Sec. 9. Expansion of bad check penalty to electronic payments, etc.

12 **SEC. 2. FUNDS ADVISED BY CERTAIN PUBLIC CHARITIES**

13 **AND GOVERNMENTAL ENTITIES NOT TREAT-**

14 **ED AS DONOR ADVISED FUNDS.**

15 (a) **IN GENERAL.**—Subparagraph (B) of section
16 4966(d)(2) is amended by striking “or” at the end of
17 clause (i), by striking the period at the end of clause (ii)

1 and inserting “, or”, and by adding at the end the fol-
 2 lowing new clause:

3 “(iii) if all contributions to such fund
 4 or account have been made, and all advi-
 5 sory privileges referred to in subparagraph
 6 (A)(iii) with respect to such fund or ac-
 7 count have been exercised, by either—

8 “(I) one or more organizations
 9 described in clause (i), (ii), (iii), (iv),
 10 or (vi) of section 170(b)(1)(A) or sec-
 11 tion 509(a)(2), or

12 “(II) one or more entities de-
 13 scribed in section 170(c)(1).”.

14 (b) **EFFECTIVE DATE.**—The amendments made by
 15 this section shall apply to taxable years ending after the
 16 date of the enactment of this Act.

17 **SEC. 3. CERTAIN SCHOLARSHIP DISTRIBUTIONS FROM**
 18 **DONOR ADVISED FUNDS NOT TREATED AS**
 19 **TAXABLE DISTRIBUTIONS.**

20 (a) **IN GENERAL.**—Subsection (c) of section 4966 is
 21 amended by adding at the end the following new para-
 22 graph:

23 “(3) **EXCEPTION FOR CERTAIN SCHOLARSHIP**
 24 **DISTRIBUTIONS.**—

1 “(A) IN GENERAL.—The term ‘taxable dis-
2 tribution’ shall not include any qualified schol-
3 arship distribution from a qualified scholarship
4 fund.

5 “(B) QUALIFIED SCHOLARSHIP DISTRIBU-
6 TION.—The term ‘qualified scholarship distribu-
7 tion’ means any grant to a natural person for
8 travel, study, or other similar purposes made
9 from a donor advised fund if all such grants
10 meet the requirements of subsection
11 (d)(2)(B)(ii)(III).

12 “(C) QUALIFIED SCHOLARSHIP FUND.—
13 The term ‘qualified scholarship fund’ means
14 any donor advised fund if—

15 “(i) the advisory privileges referred to
16 in subsection (d)(2)(A)(iii) with respect to
17 such fund are exercised solely by an orga-
18 nization described in paragraph (4) of sec-
19 tion 501(c) and exempt from tax under
20 section 501(a), and

21 “(ii) substantially all of the distribu-
22 tions from such fund are qualified scholar-
23 ship distributions.”.

24 (b) APPLICATION OF TAX ON PROHIBITED BENEFITS
25 TO QUALIFIED SCHOLARSHIP DISTRIBUTIONS.—Sub-

1 section (c) of section 4967 is amended by adding at the
2 end the following new paragraph:

3 “(3) QUALIFIED SCHOLARSHIP FUNDS.—Each
4 substantial contributor (as defined in section
5 4958(e)(3)(C)) to a qualified scholarship fund and
6 each family member (within the meaning of section
7 4958(f)(4)) of such person shall be treated as a per-
8 son described in subsection (d) with respect to such
9 fund.”.

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

13 **SEC. 4. REPEAL OF SPECIAL WRITTEN ACKNOWLEDGMENT**
14 **REQUIREMENT FOR CHARITABLE CONTRIBU-**
15 **TIONS TO DONOR ADVISED FUNDS.**

16 (a) IN GENERAL.—Paragraph (18) of section 170(f)
17 is amended—

18 (1) by striking subparagraph (B),

19 (2) by striking “if—” and all that follows
20 through “the sponsoring organization (as defined in
21 section 4966(d)(1))” and inserting “if the spon-
22 soring organization (as defined in section
23 4966(d)(1))”, and

24 (3) by redesignating clauses (i) and (ii) of sub-
25 paragraph (A) (as in effect before amendment by

1 paragraph (2)) as subparagraphs (A) and (B) and
2 by moving such subparagraphs 2 ems to the left.

3 (b) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to taxable years ending after the
5 date of the enactment of this Act.

6 **SEC. 5. REASONABLE COMPENSATION PAID BY SUP-**
7 **PORTING ORGANIZATIONS TO SUBSTANTIAL**
8 **CONTRIBUTORS NOT TREATED AS AN EXCESS**
9 **BENEFIT.**

10 (a) IN GENERAL.—Clause (ii) of section
11 4958(c)(3)(A) is amended to read as follows:

12 “(ii) the term ‘excess benefit’ includes,
13 with respect to any transaction described
14 in clause (i)—

15 “(I) in the case of any grant,
16 loan, or similar payment, the amount
17 of such grant, loan, or similar pay-
18 ment, and

19 “(II) in the case of any com-
20 pensation or similar payment, the
21 amount by which the value of the eco-
22 nomic benefit provided exceeds the
23 value of the consideration (including
24 the performance of services) received
25 for providing such benefit.”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall apply to amounts paid pursuant to trans-
3 actions entered into after the date of the enactment of
4 this Act.

5 **SEC. 6. EXCEPTION FROM HOLDINGS AND PAYOUT RE-**
6 **QUIREMENTS FOR LONGSTANDING, FULLY**
7 **FUNDED TYPE III SUPPORTING ORGANIZA-**
8 **TIONS.**

9 (a) HOLDINGS REQUIREMENTS.—Subsection (f) of
10 section 4943 is amended by adding at the end the fol-
11 lowing new paragraph:

12 “(8) EXCEPTION FOR CERTAIN LONGSTANDING
13 FULLY FUNDED TYPE III SUPPORTING ORGANIZA-
14 TIONS.—Paragraph (1) shall not apply to any orga-
15 nization if—

16 “(A) the organization was established be-
17 fore January 1, 1970,

18 “(B) the organization has not accepted any
19 substantial contributions after December 31,
20 1970,

21 “(C) no donor to the organization was
22 alive on August 17, 2006, and

23 “(D) no family member (within the mean-
24 ing of section 4958(f)(4)) of any donor is an or-

1 organization manager (as defined in section
2 4958(f)(2)).”.

3 (b) PAYOUT REQUIREMENTS.—Section 1241(d)(1) of
4 the Pension Protection Act of 2006 shall not apply to any
5 organization described in section 4943(f)(8) of the Inter-
6 nal Revenue Code of 1986, as added by this section.

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

10 **SEC. 7. CONTRIBUTIONS BY INDIAN TRIBAL GOVERNMENTS**

11 **TREATED SAME AS CONTRIBUTIONS BY**
12 **STATES.**

13 (a) IN GENERAL.—Section 7871(a) (relating to In-
14 dian tribal governments treated as States for certain pur-
15 poses) is amended by striking “and” at the end of para-
16 graph (6), by striking the period at the end of paragraph
17 (7) and inserting “; and”, and by adding at the end the
18 following new paragraph:

19 “(8) for purposes of—

20 “(A) determining support of an organiza-
21 tion described in section 170(b)(1)(A)(vi), and

22 “(B) determining whether an organization
23 is described in paragraph (1) or (2) of section
24 509(a) for purposes of section 509(a)(3).”.

1 (b) EFFECTIVE DATE.—The amendments made by
2 this section shall apply with respect to—

3 (1) support received on or after the date of the
4 enactment of this Act, and

5 (2) the determination of the status of any orga-
6 nization with respect to any taxable year beginning
7 after such date of enactment.

8 **SEC. 8. ELECTRONIC FILING OF EXEMPT ORGANIZATION**
9 **ANNUAL RETURNS.**

10 (a) IN GENERAL.—Subsection (d) of section 6104
11 (relating to public inspection of certain annual returns, re-
12 ports, applications for exemption, and notices of status)
13 is amended—

14 (1) by redesignating the paragraph relating to
15 disclosure of reports by Internal Revenue Service as
16 paragraph (7),

17 (2) by redesignating the paragraph relating to
18 application to nonexempt charitable trusts and non-
19 exempt private foundations as paragraph (8), and

20 (3) by adding at the end the following new
21 paragraph:

22 “(9) RETURNS REQUIRED ON MAGNETIC MEDIA,
23 ETC.—Any organization (other than an organization
24 exempt from tax under section 527(a)) which—

1 (b) EFFECTIVE DATE.—The amendment made by
2 subsection (a) shall apply to authorizations of payments
3 made after December 31, 2005.

Passed the House of Representatives September 27,
2008.

Attest: LORRAINE C. MILLER,
Clerk.