

117TH CONGRESS
1ST SESSION

S. 3191

To amend the Internal Revenue Code of 1986 to provide for flexible giving accounts, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 4, 2021

Mr. SASSE (for himself and Ms. BALDWIN) 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 for flexible giving accounts, and for other purposes.

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 “Everyday Philan-
5 thropist Act”.

6 **SEC. 2. FLEXIBLE GIVING ACCOUNTS.**

7 (a) IN GENERAL.—Subsection (a) of section 132 of
8 the Internal Revenue Code of 1986 is amended by striking
9 “or” at the end of paragraph (7), by striking the period

1 at the end of paragraph (8) and inserting “, or”, and by
2 inserting after paragraph (8) the following:

3 “(9) flexible giving account.”.

4 (b) FLEXIBLE GIVING ACCOUNT.—Section 132 of
5 such Code is amended by redesignating subsection (o) as
6 subsection (p) and by inserting after subsection (n) the
7 following:

8 “(o) FLEXIBLE GIVING ACCOUNT.—

9 “(1) IN GENERAL.—

10 “(A) FLEXIBLE GIVING ACCOUNT.—For
11 purposes of this subsection, a flexible giving ac-
12 count is an account under an arrangement
13 which is a separate written plan of an employer
14 for the exclusive benefit of all eligible employees
15 under which—

16 “(i) an employee may elect—

17 “(I) to receive a reduction in
18 compensation and have the employer
19 deposit the amount of the reduction in
20 a flexible giving account of the elect-
21 ing employee, and

22 “(II) before the reduction under
23 subclause (I), to designate 1 or more
24 eligible entities to which distributions
25 are to be made from the account,

1 “(ii) the employer will not make any
2 reduction under clause (i)(I) unless 1 or
3 more entities have been designated under
4 clause (i)(II),

5 “(iii) the employer, as soon after the
6 deposit under clause (i)(I) as practicable,
7 makes the disbursements designated under
8 clause (i),

9 “(iv) the employer provides reasonable
10 notification of the availability and terms of
11 the arrangement to all eligible employees,

12 “(v) the employer maintains a sepa-
13 rate flexible giving account on behalf of
14 each employee for whom an election is in
15 effect under clause (i), and

16 “(vi) the employer agrees to furnish
17 to each participating employee, on or be-
18 fore January 31 of each year, a written ac-
19 counting of the employee’s flexible giving
20 account showing deposits and disburse-
21 ments during the previous calendar year.

22 “(B) MAXIMUM REDUCTION.—The amount
23 of a reduction under subparagraph (A) for a
24 taxable year shall not exceed \$2,700.

1 “(2) ELIGIBLE EMPLOYEE.—For purposes of
2 this subsection—

3 “(A) IN GENERAL.—

4 “(i) ELIGIBLE EMPLOYEE.—The term
5 ‘eligible employee’ means, with respect to a
6 flexible giving account, any employee
7 who—

8 “(I) is not a highly compensated
9 or key employee, and

10 “(II) has not been excluded from
11 the arrangement pursuant to subpara-
12 graph (B).

13 “(ii) HIGHLY COMPENSATED EM-
14 PLOYEE.—The term ‘highly compensated
15 employee’ has the meaning given such term
16 by section 414(q).

17 “(iii) KEY EMPLOYEE.—The term
18 ‘key employee’ has the meaning given such
19 term by section 416(i).

20 “(B) CERTAIN EMPLOYEES MAY BE EX-
21 CLUDED.—

22 “(i) IN GENERAL.—For purposes of
23 subparagraph (A), an employer may elect
24 to exclude under the arrangement de-

1 scribed in paragraph (1) any employee
2 who—

3 “(I) has not attained the age of
4 21 before the close of a plan year of
5 the arrangement,

6 “(II) has less than 1 year of
7 service with the employer as of any
8 day during the plan year, or

9 “(III) is described in section
10 410(b)(3)(C) (relating to nonresident
11 aliens working outside the United
12 States).

13 “(ii) SHORTER SERVICE PERIOD;
14 YOUNGER AGE.—For purposes of clause
15 (i), an employer may elect to—

16 “(I) reduce the applicable min-
17 imum age under subclause (I) of such
18 clause, or

19 “(II) reduce the applicable period
20 of service under subclause (II) of such
21 clause.

22 “(3) TAX TREATMENT OF DISTRIBUTIONS.—

23 “(A) IN GENERAL.—Any distribution from
24 a flexible giving account shall not be includible
25 in the gross income of the eligible employee.

1 “(B) COORDINATION WITH SECTION 170.—

2 “(i) DENIAL OF DEDUCTION.—No de-
3 duction shall be allowed under section
4 170(a) with respect to any amount distrib-
5 uted from the flexible giving account of an
6 eligible employee.

7 “(ii) TREATMENT AS CHARITABLE
8 CONTRIBUTION.—Except as provided in
9 clause (i), any distribution from the flexi-
10 ble giving account of an eligible employee
11 shall otherwise be treated as a charitable
12 contribution made by such employee for
13 purposes of section 170, including for pur-
14 poses of any limitation applicable under
15 subsection (b) of such section.

16 “(4) ELIGIBLE ENTITY.—For purposes of this
17 subsection, the term ‘eligible entity’ means any enti-
18 ty described in paragraphs (1) through (5) of section
19 170(c) other than a private foundation described in
20 subsection (b)(1)(F) of section 170.”.

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

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