

CHARITY Act Summary

Section 1, Short Title: *Charities Helping Americans Regularly Throughout the Year Act*

Section 2, Sense of the Senate: States that encouraging charitable giving should be a goal of tax reform. 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.

Section 3, Donor Advised Funds IRA Rollover Eligibility and Transparency: Current law allows an Individual Retirement Arrangement (“IRA”) owner who is age 70-1/2 or older generally to exclude from gross income up to \$100,000 per year in distributions made directly from the IRA to certain public charities. The proposal would make donor advised funds (DAFs) eligible for such donations. The proposal would require sponsors of DAFs to disclose whether they have an official policy on “inactive” or “dormant” funds, and if so, describe the policy or include a copy of it with the return. Sponsors of DAFs would also be required to calculate and disclose the average percentage granted or distributed from all DAFs collectively during the current taxable year, as well as the average payout over the most recent three-year period. Allowing DAFs to qualify for IRA rollovers will make it easier for community foundations, and other public charities that maintain DAFs, to further their charitable mission.

Section 4, Foundation Excise Tax Simplification: Under current law, private foundations generally are subject to a two percent excise tax on their investment income. The tax is reduced to one percent in any year in which the foundation’s charitable distributions exceed the average distribution level of the preceding five years. The proposal would impose a one percent excise tax on investment income without requiring foundations to expend time and resources calculating the payout rates of previous years. The adoption of this policy would provide greater certainty to foundations currently required to calculate a tax rate based on charitable distributions over the previous five years.

Section 5, Require Non-Profits to File Form 990 Electronically: Current law requires only the smallest and largest tax-exempt organizations to file the Form 990 electronically. The proposal would require any tax-exempt organization currently required to file Form 990 to do so in electronic form. The proposal also requires the IRS to make the information on Form 990s available to the public in a machine-readable format as soon as practicable. As such, adoption of the proposal will increase transparency and accuracy while reducing opportunities for tax identity theft and fraud. The Secretary may delay the application for two years for small organizations with gross receipts of \$200,000 per taxable year and aggregate gross assets of less than \$500,000.

Section 6, Standard Mileage Rate: Currently, the IRS has the authority to regulate mileage rates for business and medical/moving purposes, but not for charitable activities. The charitable rate is set by statute and has remained unchanged since 1997. The proposal would authorize the Treasury Department to adopt regulations that align the simplified standard mileage tax deduction rate for personal vehicle use for volunteer charitable services with that for medical/moving purposes.

Section 7, Philanthropic Enterprise Act: The proposal would create a limited exception to the excess business holding tax rules for certain philanthropic business holdings. Specifically, the tax would not apply if the foundations meets three requirements 1) an exclusion ownership requirement; 2) an “all profits to charity” requirement; and 3) an independent operation requirement. As such, the proposal creates a new mechanism allowing certain businesses to give 100 percent of after-tax profits to charity without incurring a tax penalty.