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

IN THE SENATE OF THE UNITED STATES
JUNE 13, 2017

Mr. Thune (for himself, Mr. Casey, Mr. Wyden, and Mr. Roberts) 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 of 2017”.

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 2015, total charitable giving was estimated to be $373,250,000,000 (a 4.1-percent increase from 2014) 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 reform of the tax code.
SEC. 3. 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. 4. MODIFICATION OF SUBSTANTIATION REQUIREMENTS FOR CHARITABLE CONTRIBUTIONS.

(a) In General.—Paragraph (8) of section 170(f)(8) of the Internal Revenue Code of 1986 is amended by striking subparagraph (D) and by redesignating subparagraph (E) as subparagraph (D).

(b) Effective Date.—The amendments made by this section shall apply to contributions made in taxable years beginning after December 31, 2016.
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.”

(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 bur-
den 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 pur-
poses of clause (i), the term “small organi-
zation” 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 re-
quired to file a return under section 6033 of
such Code and include information under sub-
section (e) thereof, the Secretary may delay the
application of the amendments made by this
section, but not later than taxable years begin-
ning 2 years after the date of the enactment of
this Act.

SEC. 6. MODIFICATION OF RULES RELATING TO DONOR AD-
vised funds.

(a) Allowance of Tax-Free Charitable Dis-
tributions From Individual Retirement Ac-
counts.—

(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 de-
scribed 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.—Subsection (k) of section
6033 of the Internal Revenue Code of 1986 is
amended—

(A) in paragraph (2), by striking “and” at
the end;

(B) in paragraph (3), by striking the pe-
riod at the end and inserting a comma; and

(C) by adding at the end the following new
paragraphs:
“(4) list the total number of such funds which were in existence for the 36-month period ending at the close of such taxable year,

“(5) list the total number of funds described in paragraph (4) which made at least 1 grant during the period described in such paragraph, and

“(6) set forth—

“(A) whether such organization has a publicly available policy with respect to funds which are inactive, dormant, or do not make distributions during the period described in paragraph (4),

“(B) a description of the organization’s policy for responding to funds described in subparagraph (A) or a statement that no such policy is in effect, and

“(C) whether such organization regularly and consistently monitors and enforces compliance with the policy described in subparagraph (A) with respect to such funds.”.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to returns for taxable years beginning after December 31, 2017.
SEC. 7. 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 REQUIREMENTS.—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. 8. EXCEPTION FROM PRIVATE FOUNDATION EXCESS BUSINESS HOLDINGS 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—

\[\text{omitted text}\]
“(A) the exclusive ownership requirements
of paragraph (2),

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

“(C) the independent operation require-
ments 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 ac-
quired 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(e)(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 in-
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(e)(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, 2017.