

115TH CONGRESS  
1ST SESSION

# S. 1343

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

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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

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## A BILL

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

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 “Charities Helping  
5 Americans Regularly Throughout the Year Act of 2017”.

6 **SEC. 2. SENSE OF THE SENATE RELATING TO THE PROTEC-**  
7 **TION OF CHARITABLE DEDUCTIONS.**

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

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

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

8           (3) In 2012, nonprofit organizations provided  
9 11,400,000 jobs, accounting for 10.3 percent of the  
10 country's private-sector workforce.

11           (4) In 2015, total charitable giving was esti-  
12 mated to be \$373,250,000,000 (a 4.1-percent in-  
13 crease from 2014) and accounted for 2.1 percent of  
14 the gross domestic product.

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

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

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

1 **SEC. 3. DETERMINATION OF STANDARD MILEAGE RATE**  
 2 **FOR CHARITABLE CONTRIBUTIONS DEDUC-**  
 3 **TION.**

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

8 “(i) STANDARD MILEAGE RATE FOR USE OF PAS-  
 9 Senger AUTOMOBILE.—For purposes of computing the  
 10 deduction under this section for use of a passenger auto-  
 11 mobile, the standard mileage rate shall be the rate deter-  
 12 mined by the Secretary, which rate shall not be less than  
 13 the standard mileage rate used for purposes of section  
 14 213.”.

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

18 **SEC. 4. MODIFICATION OF SUBSTANTIATION REQUIRE-**  
 19 **MENTS FOR CHARITABLE CONTRIBUTIONS.**

20 (a) IN GENERAL.—Paragraph (8) of section  
 21 170(f)(8) of the Internal Revenue Code of 1986 is amend-  
 22 ed by striking subparagraph (D) and by redesignating  
 23 subparagraph (E) as subparagraph (D).

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

1 **SEC. 5. MANDATORY ELECTRONIC FILING FOR ANNUAL RE-**  
2 **URNS OF EXEMPT ORGANIZATIONS.**

3 (a) IN GENERAL.—Section 6033 of the Internal Rev-  
4 enue Code of 1986 is amended by redesignating subsection  
5 (n) as subsection (o) and by inserting after subsection (m)  
6 the following new subsection:

7 “(n) MANDATORY ELECTRONIC FILING.—Any orga-  
8 nization required to file a return under this section shall  
9 file such return in electronic form.”.

10 (b) INSPECTION OF ELECTRONICALLY FILED AN-  
11 NUAL RETURNS.—Subsection (b) of section 6104 is  
12 amended by adding at the end the following: “Any annual  
13 return required to be filed electronically under section  
14 6033(n) shall be made available by the Secretary to the  
15 public in machine readable format.”.

16 (c) EFFECTIVE DATE.—

17 (1) IN GENERAL.—Except as provided in para-  
18 graph (2), the amendments made by this section  
19 shall apply to taxable years beginning after the date  
20 of the enactment of this Act.

21 (2) TRANSITIONAL RELIEF.—

22 (A) SMALL ORGANIZATIONS.—

23 (i) IN GENERAL.—In the case of any  
24 small organizations, or any other organiza-  
25 tions for which the Secretary determines  
26 the application of the amendments made

1 by subsection (a) would cause undue bur-  
2 den without a delay, the Secretary may  
3 delay the application of such amendments,  
4 but not later than taxable years beginning  
5 2 years after the date of the enactment of  
6 this Act.

7 (ii) SMALL ORGANIZATION.—For pur-  
8 poses of clause (i), the term “small organi-  
9 zation” means any organization—

10 (I) the gross receipts of which for  
11 the taxable year are less than  
12 \$200,000; and

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

16 (B) ORGANIZATIONS FILING FORM 990-  
17 T.—In the case of any organization described in  
18 section 511(a)(2) of the Internal Revenue Code  
19 of 1986 which is subject to the tax imposed by  
20 section 511(a)(1) of such Code on its unrelated  
21 business taxable income, or any organization re-  
22 quired to file a return under section 6033 of  
23 such Code and include information under sub-  
24 section (e) thereof, the Secretary may delay the  
25 application of the amendments made by this

1 section, but not later than taxable years begin-  
2 ning 2 years after the date of the enactment of  
3 this Act.

4 **SEC. 6. MODIFICATION OF RULES RELATING TO DONOR AD-**  
5 **VISED FUNDS.**

6 (a) ALLOWANCE OF TAX-FREE CHARITABLE DIS-  
7 TRIBUTIONS FROM INDIVIDUAL RETIREMENT AC-  
8 COUNTS.—

9 (1) IN GENERAL.—Clause (i) of section  
10 408(d)(8)(B) of the Internal Revenue Code of 1986  
11 is amended by striking “or any fund or account de-  
12 scribed in section 4966(d)(2)”.

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

16 (b) RETURN DISCLOSURES.—

17 (1) DISTRIBUTIONS.—Subsection (k) of section  
18 6033 of the Internal Revenue Code of 1986 is  
19 amended—

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

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

24 (C) by adding at the end the following new  
25 paragraphs:

1           “(4) list the total number of such funds which  
2           were in existence for the 36-month period ending at  
3           the close of such taxable year,

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

7           “(6) set forth—

8                   “(A) whether such organization has a pub-  
9                   licly available policy with respect to funds which  
10                   are inactive, dormant, or do not make distribu-  
11                   tions during the period described in paragraph  
12                   (4),

13                   “(B) a description of the organization’s  
14                   policy for responding to funds described in sub-  
15                   paragraph (A) or a statement that no such pol-  
16                   icy is in effect, and

17                   “(C) whether such organization regularly  
18                   and consistently monitors and enforces compli-  
19                   ance with the policy described in subparagraph  
20                   (A) with respect to such funds.”.

21           (2) EFFECTIVE DATE.—The amendment made  
22           by this subsection shall apply to returns for taxable  
23           years beginning after December 31, 2017.

1 **SEC. 7. MODIFICATION OF THE TAX RATE FOR THE EXCISE**  
 2 **TAX ON INVESTMENT INCOME OF PRIVATE**  
 3 **FOUNDATIONS.**

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

7 (b) ELIMINATION OF REDUCED TAX WHERE FOUN-  
 8 DATION MEETS CERTAIN DISTRIBUTION REQUIRE-  
 9 MENTS.—Section 4940 of such Code is amended by strik-  
 10 ing subsection (e).

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

14 **SEC. 8. EXCEPTION FROM PRIVATE FOUNDATION EXCESS**  
 15 **BUSINESS HOLDINGS TAX FOR CERTAIN**  
 16 **PHILANTHROPIC BUSINESS HOLDINGS.**

17 (a) IN GENERAL.—Section 4943 of the Internal Rev-  
 18 enue Code of 1986 is amended by adding at the end the  
 19 following new subsection:

20 “(g) EXCEPTION FOR CERTAIN PHILANTHROPIC  
 21 BUSINESS HOLDINGS.—

22 “(1) IN GENERAL.—Subsection (a) shall not  
 23 apply with respect to the holdings of a private foun-  
 24 dation in any business enterprise which for the tax-  
 25 able year meets—



1           “(A) the exclusive ownership requirements  
2 of paragraph (2),

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

5           “(C) the independent operation require-  
6 ments of paragraph (4).

7           “(2) EXCLUSIVE OWNERSHIP.—The exclusive  
8 ownership requirements of this paragraph are met  
9 if—

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

13           “(B) all the private foundation’s ownership  
14 interests in the business enterprise were ac-  
15 quired under the terms of a will or trust upon  
16 the death of the testator or settlor, as the case  
17 may be.

18           “(3) ALL PROFITS TO CHARITY.—

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

1           “(B) NET OPERATING INCOME.—For pur-  
2           poses of this paragraph, the net operating in-  
3           come of any business enterprise for any taxable  
4           year is an amount equal to the gross income of  
5           the business enterprise for the taxable year, re-  
6           duced by the sum of—

7                   “(i) the deductions allowed by chapter  
8                   1 for the taxable year which are directly  
9                   connected with the production of such in-  
10                  come,

11                  “(ii) the tax imposed by chapter 1 on  
12                  the business enterprise for the taxable  
13                  year, and

14                  “(iii) an amount for a reasonable re-  
15                  serve for working capital and other busi-  
16                  ness needs of the business enterprise.

17           “(4) INDEPENDENT OPERATION.—The inde-  
18           pendent operation requirements of this paragraph  
19           are met if, at all times during the taxable year—

20                  “(A) no substantial contributor (as defined  
21                  in section 4958(c)(3)(C)) to the private founda-  
22                  tion, or family member of such a contributor  
23                  (determined under section 4958(f)(4)), is a di-  
24                  rector, officer, trustee, manager, employee, or  
25                  contractor of the business enterprise (or an in-

1           dividual having powers or responsibilities simi-  
2           lar to any of the foregoing),

3           “(B) at least a majority of the board of di-  
4           rectors of the private foundation are individuals  
5           other than individuals who are either—

6                   “(i) directors or officers of the busi-  
7                   ness enterprise, or

8                   “(ii) members of the family (deter-  
9                   mined under section 4958(f)(4)) of a sub-  
10                  stantial contributor (as defined in section  
11                  4958(c)(3)(C)) to the private foundation,  
12                  and

13                  “(C) there is no loan outstanding from the  
14                  business enterprise to a substantial contributor  
15                  (as so defined) to the private foundation or a  
16                  family member of such contributor (as so deter-  
17                  mined).

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

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

23                   “(B) any trust described in section  
24                   4947(a)(1) (relating to charitable trusts), and

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

3           (b) EFFECTIVE DATE.—The amendments made by  
4 this section shall apply to taxable years beginning after  
5 December 31, 2017.

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