Bruce R. Hopkins'
NONPROFIT COUNSEL

SENATE PASSES BUDGET RECONCILIATION BILL, WHICH WOULD ADD MANY EXEMPT ORGANIZATIONS, CHARITABLE GIVING LAWS

Analysis of current developments in tax and related law for nonprofit organizations and their professional advisors.

Volume 23 Number 1
January 2006

ALSO IN THIS ISSUE...

The Senate, on November 18, approved its version of the budget and tax reconciliation legislation, titled the Tax Relief Act of 2005 (S. 2020), including several tax-exempt organizations and charitable giving provisions, some of which were added to the bill by voice vote just prior to its passage. These proposals are identified by their inclusion in the Act or in the final manager's amendment (MA). The House had not passed its version of the legislation (H.R. 4297) at the time this issue of the newsletter went to press.

EXEMPT ORGANIZATIONS

Here are the tax-exempt organizations proposals:

Donor-Advised Funds

The proposal would define a *donor-advised fund* as a fund or account that is (1) separately identified by reference to contributions of a donor or donors, (2) owned and controlled by what would be termed a *sponsoring organization*, and (3) as to which a donor or donor advisor has, or reasonably expects to have, advisory privileges with respect to the distribution or investment of amounts held in the fund.

Contributions to a sponsoring organization for maintenance in a donor-advised fund would not be deductible for federal income tax purposes if the sponsoring organization is a supporting organization, veterans' organization, fraternal society, or cemetery company. There would be somewhat similar rules in the gift and estate tax context. A donor to a donor-advised fund would have to obtain an additional substantiation document providing that the sponsoring organization has exclusive legal control over the gift item.

A sponsoring organization would have to adhere to a payout requirement from the assets of the donor-advised funds it maintains, equal to an amount

Published online in Wiley InterScience (www.interscience.wiley.com).
DOI:10.1002/npc.20024

equivalent to 5 percent of the aggregate asset value of the funds. There also would be an account-level activity requirement, measured over a three-year period; the required distributable amount would be the greater of $250 or 2.5 percent of the sponsoring organization's average required minimum initial contribution amount (that is, the amount required to open the fund) for the period (or average required minimum balance, if greater) for the type of donor at issue. If a donor-advised fund holds illiquid assets equaling more than 10 percent of the total value of assets in the account, the fund would have to distribute at least 5 percent of the value of the assets in the fund.

For purposes of these distribution requirements, the payments must be to public charities other than supporting organizations or a sponsoring organization if the amount is for maintenance in a donor-advised fund. Special valuation rules would apply for purposes of determining the required distributable amount for a tax year under the aggregate payout requirement and the account-level payout requirement applicable to accounts that hold illiquid assets.

In the event of a failure to timely distribute the required amount in connection with any of the distribution requirements, there would be an initial tax equal to 30 percent of the undistributed amount and an additional tax (triggered in the absence of correction) of 100 percent of the undistributed amount.

Donors, donor advisors, and investment advisors to donor-advised funds (and related persons) automatically would be treated as disqualified persons with respect to the sponsoring organization. Thus, distributions from a donor-advised fund to such a disqualified person automatically would be an excess benefit transaction, with the entire amount paid to the person being the excess benefit.

Distributions from a donor-advised fund to any person other than the sponsoring organization's other accounts or public charities (other than supporting organizations) are prohibited. In the event of a prohibited distribution, an excise tax equal to 20 percent of the amount distributed would be imposed on the donor or donor advisor who advised that the distribution be made. An excise tax equal to 5 percent of the amount of the distribution would be imposed on any manager of the sponsoring organization who knowingly approved the distribution. These taxes would be subject to abatement.

If a donor, a donor advisor, or a related person receives, directly or indirectly, a benefit (other than an insubstantial one) as the result of a donor-advised fund distribution, excise taxes would be imposed on the donor, advisor, and recipient of the benefit. These taxes would be those imposed pursuant to the intermediate sanctions rules. A manager of a sponsoring organization who participated in the distribution knowing it would confer such a benefit would also be subject to tax.

A sponsoring organization would be required to disclose on its annual information return the number of donor-advised funds it owns, the aggregate value of assets held in the funds at the end of its tax year, and the aggregate contributions to and grants from the funds during the year. When seeking recognition of exempt status, a sponsoring organization would have to disclose whether it intends to maintain donor-advised funds and provide detailed information regarding its planned operation of the funds. [Act §§ 331–334] [11.6]

All Supporting Organizations

All supporting organizations would be prohibited from making grants, loans, compensation, or similar payments to a substantial contributor (or related persons) of the supporting organization. If one of these pro-

Bruce R. Hopkins' Nonprofit Counsel (Print ISSN: 1542-8419; Online ISSN: 1542-8427 at BoldIdeas, www.bold-ideas.com) is published monthly by Wiley Subscription Services, Inc., a Wiley Company, 111 River Street, Hoboken, NJ 07030-5774.

Address subscription inquiries to Subscription Manager, Jossey-Bass, a Wiley Company, 989 Market Street, San Francisco, CA 94103-1741; Tel.: (888) 378-2537, (415) 433-1767 (International); E-mail: jbsubs@jbp.com.

Postmaster: Send address changes to *Bruce R. Hopkins' Nonprofit Counsel*, Subscription Distribution US, c/o John Wiley & Sons, Inc., 111 River Street, Hoboken, NJ 07030-5774.

Subscription price: Print only: $460.00 worldwide. Electronic only: $460.00 worldwide. A combination price of $506.00 worldwide, includes the subscription in both the electronic and print formats. All subscriptions containing a print element, shipped outside the U.S., will be sent by air. Payment must be made in U.S. dollars drawn on a U.S. bank. Claims for undelivered copies will be accepted only after the following issue has been received.

hibited payments is made, the substantial contributor is treated as a disqualified person; the transaction is treated as an excess benefit transaction, with the entire payment amount treated as the excess benefit. Loans by any supporting organization to a disqualified person would be likewise prohibited and taxed.

All supporting organizations will be required to file an annual information return, irrespective of the amount of the organization's gross receipts. A supporting organization will have to indicate on its application for recognition of exemption and annual information returns which type of supporting organization (I, II, or III) it is. A supported organization will have to identify on its annual information return the organization(s) with respect to which it is a supported organization.

A supporting organization will have to demonstrate annually that one or more disqualified persons do not directly or indirectly control it. This will require a certification on the annual information return that the majority of the organization's governing body is composed of individuals who were selected on the basis of their special knowledge or expertise in the field or discipline in which the supporting organization is operating or because they represent the community that is served by the supported organization. This certification will also have to state that these individuals do not have any family, personal, or business relationship with any of the organization's disqualified persons.

The private foundation excess business holdings rules will be applied to supporting organizations. The IRS will have the authority to not impose these rules if it can be established that the excess holdings are consistent with the organization's exempt purposes.

A nonoperating private foundation generally could not make a qualifying distribution to a supporting organization. An amount paid to a supporting organization by a private foundation would be treated as a taxable expenditure unless expenditure responsibility is exercised with respect to the grant. [Act § 341] [11.3(c)]

Type III Supporting Organizations

A Type III supporting organization would have to annually pay out, to or for the use of one or more public charities, the greater of 85 percent of its income or an amount equal to 5 percent of the value of its noncharitable assets. Any amounts repaid that were previously taken into account as support would be added to this payout amount. The details of this distribution requirement would be similar to the private foundation distribution rules. A supporting organization's administrative and operating expenses would not count toward this mandatory payout. This payout rule would be the subject of a 30 percent initial tax, increased to 100 percent if these payout rules are not timely satisfied.

A Type III supporting organization could not support more than five organizations, could not support an organization that is not organized in the United States, and could not be a donor (grantor) with respect to a donor-advised fund. A Type III supporting organization could provide support to a sponsoring organization of a donor-advised fund as long as the support is not for maintenance in such a fund.

A Type III supporting organization would have to attach to its application for recognition of exemption a letter from each organization that is designated as a supported organization. The existence of these letters would have to be indicated on the annual information returns. The letters must show that the supported organization agrees to be supported by the supporting organization, the type of support provided or to be provided, and how the support furthers the supported organization's charitable purposes. [Act §§ 342–346] [11.3(c)]

Credit Counseling Organizations

To qualify for tax exemption (under IRC § 501(c)(3) or (4)), a credit counseling organization would have to meet the following requirements:

- The organization provides credit counseling services that are tailored to the specific needs and circumstances of the consumer.
- The organization does not make loans to, or negotiate the making of loans on behalf of, debtors.
- The organization generally does not provide or promote a service for the purpose of improving a consumer's credit record, credit history, or credit rating.
- The organization does not refuse to provide credit counseling services to a consumer due to inability to pay, ineligibility of the consumer for debt management plan (DMP) enrollment, or the unwillingness of a consumer to enroll in a DMP.
- The organization has a policy of charging only reasonable fees, and the policy also prohibits charging a fee based on a percentage of the consumer's debt, the consumer's payments to be made pursuant to a DMP, or projected or actual savings to the consumer resulting from enrollment in a DMP.
- The organization has a board of directors (1) that is controlled by persons who represent the broad interests of the public, (2) no more than 20 percent of which are employees of the organization or other beneficiaries of the organization's activities (other than recipients of reasonable directors' fees or the repayment of consumer debt to creditors), and (3) no more than 49 percent of which is vested in employees of the organization or other beneficiaries of the organization's activities (other than through the receipt of reasonable directors' fees).

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- The organization does not receive any amount for providing referrals to others for financial services to be provided to consumers and does not pay any amount to others for obtaining referrals of consumers.
- The organization is not related to an organization in the business of credit repair, to a person that is in the business of lending money, or to a person that provides DMP services, payment processing, and similar services.

A credit counseling organization would be exempt by reason of IRC § 501(c)(3) only if (in addition to satisfaction of the foregoing bulleted criteria) it does not charge any fees (other than nominal ones) for DMP services and waives any fees if payment of them would work a financial hardship, does not solicit contributions from consumers during the initial counseling process or while the consumer is receiving services from the organization, and normally limits DMP services to 25 percent of the organization's total activities.

A credit counseling organization would be exempt by reason of IRC § 501(c)(4) only if (in addition to satisfaction of the foregoing bulleted criteria) it does not charge any fees (other than nominal ones) for its credit counseling services and waives any fees if payment of them would work a financial hardship, and it applies for recognition of tax exemption.

DMP services would be treated as unrelated businesses to the extent the services are not substantially related to the provision of credit counseling services to a consumer or are provided by an organization that is not a credit counseling organization. [Act § 321] [6.2A]

Excise Taxes Increases

The following increases in excise taxes and dollar limitations would be enacted:

- For acts of self-dealing other than the payment of compensation by a private foundation to a disqualified person, the initial tax on the self-dealer would be increased from 5 percent to 10 percent of the amount involved.
- For acts of self-dealing regarding the payment of compensation by a private foundation to a disqualified person, the initial tax on the self-dealer would be increased from 5 percent to 25 percent of the amount involved (15 percent of which would be subject to abatement).
- The initial tax on foundation managers would be increased from 2.5 percent to 5 percent of the amount involved.
- The dollar limitation on the amount of the initial and additional taxes on foundation managers per act of self-dealing would be increased from $10,000 to $20,000.
- The dollar limitation on organization managers of public charities and social welfare organizations for participation in excess benefit transactions would be increased from $10,000 to $20,000 per transaction.
- For the failure to distribute income, the initial tax on a private foundation would be increased from 15 to 30 percent of the undistributed amount.
- For excess business holdings, the initial tax on private foundation holdings would be increased from 5 to 10 percent of the value of the holdings.
- For jeopardizing investments, the initial tax of 5 percent of the amount of the investment that is imposed on the foundation and on foundation managers would be increased to 10 percent.
- For jeopardizing investments, the dollar limitation on the initial tax on foundation managers would be increased from $5,000 to $10,000 per investment; the dollar limitation on the additional tax on foundation managers would be increased from $10,000 to $20,000 per investment.
- For taxable expenditures, the initial tax on a private foundation would be increased from 10 percent to 20 percent of the amount of the expenditure; the initial tax on the foundation manager would be increased from 2.5 percent to 5 percent of the expenditure.
- For taxable expenditures, the dollar limitation on the initial tax on foundation managers would be increased from $5,000 to $10,000; the dollar limitation on the additional tax on foundation managers would be increased from $10,000 to $20,000. [Act § 313] [11.4, 19.11]

Payments to Controlling Exempt Organizations

The general rule concerning payments to controlling tax-exempt organizations (IRC § 512(b)(13))—which causes interest, rent, annuities, and royalty payments made by a controlled entity to an exempt organization to be the latter organization's unrelated business income to the extent the payment reduces the net unrelated income (or increases any net unrelated loss) of the controlled entity—would apply only to the portion of payments received or accrued in a tax year that exceed the amount of the specified payment that would have been paid or accrued if the payment had been determined under the rules concerning the allocation of tax items among taxpayers (IRC § 482). There would be a 20-percent penalty on the larger of this excess determined without regard to any amendment or supplement to a tax return or such excess determined with regard to all such amendments and supplements. [Act § 306(a)] [27.1(n)]

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Public Availability of Form 990-T

The present-law public inspection and disclosure requirements and penalties applicable with respect to annual information returns (generally, Form 990) would be extended to the unrelated business income tax returns (Form 990-T) of charitable organizations. Certain information (such as that relating to a trade secret, patent, process, style of work, or apparatus) could be withheld by these organizations from public disclosure if public availability would adversely affect the organization, as determined by the IRS. [Act § 306(b)] [24.3(a)(v)]

UBIT Certifications

A charitable organization that normally has annual gross revenues or gross assets of at least $10 million would have to include with its annual information return and any unrelated business income tax return a certification by an independent auditor or legal counsel that the organization's filings accurately reflect the unrelated business income tax liability of the organization for the tax year.

This certification would require the preparer of the certification to attest that:

- The businesses of the organization, its sources of investment income, and its sources of program service revenues were reviewed, and that the reporting and descriptions of these items are complete and accurate;
- The organization's expense allocations between exempt, unrelated, and other activities used to determine the organization's unrelated business income tax comply with the tax law requirements (Reg. §1.512(a)-1); and
- The reviewer has or has not reviewed or provided a tax opinion regarding the organization's treatment of income or an activity under the unrelated business rules; if such an opinion was provided, the certification must include a description of the material facts on which the opinion was based.

Failure to comply with this certification requirement would result in a penalty, imposed on the organization, of 0.5 percent of the organization's total gross revenues for the tax year, other than contributions and grants. [Act § 306(c)]

Acquisitions of Interests in Insurance Contracts

There would be an excise tax, equal to 100 percent of the acquisition costs, on the taxable acquisition of an interest in an applicable insurance contract. An *applicable insurance contract* would be any life insurance, annuity, or endowment contract in which both an *applicable exempt organization* (generally, a charitable entity) and a person who is not such an organization have, directly or indirectly, held an interest in the contract (whether or not the interests are held at the same time). A *taxable acquisition* is the acquisition of any direct or indirect interest in an applicable insurance contract by an applicable tax-exempt organization, with exceptions. [Act § 312]

Exempt Organizations' Involvement in Tax Shelters

Many tax-exempt organizations would become subject to penalties for participating in a prohibited tax shelter transaction as accommodation parties. A *prohibited tax shelter transaction* would be a transaction that the IRS determines is a listed transaction (IRC § 6707A(c)(2)) or a reportable transaction that is a confidential transaction or a transaction with contractual protection. It would also be made clear that an exempt organization that participates in a reportable transaction in order to shelter from tax the organization's tax liability (usually the unrelated business income tax) is subject to the law pertaining to disclosure of these transactions (IRC §§ 6011, 6707A).

If a tax-exempt organization participates in a transaction, knowing or with reason to know that the transaction is a prohibited tax shelter transaction, the entity would be subject to a tax of the greater of 100 percent of the entity's net income or 75 percent of the gross proceeds that are attributable to the entity's participation in the prohibited transaction.

If a transaction is not a prohibited tax shelter transaction at the time a tax-exempt organization participates in it, and the transaction is subsequently determined by the IRS to be a prohibited tax shelter transaction, the entity would have to pay an excise tax at the highest unrelated business taxable income rate times the greater of (1) any income that is allocable to the transaction after the time it becomes prohibited or (2) 75 percent of the gross income allocable to the organization from the transaction after the time it becomes prohibited.

A person who fails to include information with respect to a prohibited tax shelter transaction on any return or statement as required by the IRS would have to pay a penalty of $10,000 in the case of a natural person, or otherwise $50,000. A party to a prohibited tax shelter transaction that is not a tax-exempt organization would be required to disclose to the exempt entity that the transaction is a prohibited tax shelter transaction.

Disclosure by a tax-exempt organization to the IRS, of each participation in a prohibited tax shelter transaction, and disclosure of other known parties to the transaction would be required if the exempt organization knows that the transaction is a reportable transaction. The penalty for failure to disclose would be imposed on the entity, at $100 per day the failure continues (with a maximum of $50,000). If a person fails to comply with a demand by the IRS for payment of this penalty, the person would be required to pay a penalty of $100 per day (with a maximum of $10,000 per reportable transaction).

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A penalty of $20,000 would be imposed on each entity manager that approves or otherwise causes a tax-exempt organization's participation in a prohibited tax shelter transaction, knowing or with reason to know that the transaction is a prohibited tax shelter transaction. An *entity manager* would be defined as a person with authority or responsibility similar to that exercised by a trustee, director, or officer of an organization, except that in the case of a charitable (IRC § 501(c)(3)) organization or a social welfare (IRC § 501(c)(4)) organization, the intermediate sanctions definition of an *organization manager* (IRC § 4958(f)(2)) would apply. [Act § 311] [2.6]

Private Foundation Investment Income Tax

The definition of private foundations' gross investment income would be amended to include certain items of income not enumerated under present law but identified in the tax regulations—namely, income from notional principal contracts, annuities, and other substantially similar income from ordinary and routine investments. Also, capital gains and losses subject to the tax would be modified to include capital gains from appreciation, including capital gains and losses from the sale or other disposition of assets used to further exempt purposes. [MA] [11.4(f)]

Information Sharing with State Officials

The IRS would be authorized to disclose to state charity officials information regarding organizations as to which the IRS has denied recognition of or revoked tax-exempt status, or taken certain other actions. [MA]

Notification Requirement

Certain organizations that currently do not have an annual filing requirement because their gross receipts are normally less than $25,000 would be required to file an annual notice with the IRS providing basic contact and financial information. [MA] [11.3(a)]

Conventions or Associations of Churches

The definition of the phrase *convention or association of churches* would be clarified. [MA] [11.3(a)] ◆

CHARITABLE GIVING

Here are the charitable giving proposals:

Substantiation and Recordkeeping

The substantiation requirements that currently apply with respect to charitable contributions of $250 or more would apply to all charitable contributions with a value of $100 or more. [Act § 318(a)] [21.1]

In the case of a charitable contribution of money, irrespective of the amount, the recordkeeping requirements would be satisfied only if the donor maintains a cancelled check or a receipt (or letter or other written communication) from the donee showing the name of the donee organization and the date and amount of the contribution. [Act § 318(b)] [21.1]

Charitable Deduction for Nonitemizers

An individual who does not itemize deductions would be allowed a deduction from adjusted gross income for charitable contributions of cash. This deduction, which would be in addition to the standard deduction, would be available only for that portion of contributions made during the year that in the aggregate exceed $210 ($420 in the case of a joint return). This deduction generally would be subject to the tax rules normally governing charitable contribution deductions, including the substantiation requirements. [Act § 301]

Charitable Deduction Floor

An individual who itemizes deductions would be subject to a floor on all cash and noncash charitable deductions of $210 ($420 in the case of a joint return). This floor would also apply to carryovers of excess contributions from prior years. [Act § 301]

Charitable Distributions from IRAs

There would be an exclusion from gross income for otherwise taxable distributions from a traditional individual retirement arrangement (IRA) or a Roth IRA in the case of qualified charitable distributions. A *qualified charitable distribution* would be defined as any distribution from an IRA that is made after December 31, 2005, and before January 1, 2008, directly by the IRA trustee either to a charitable organization or to a split-interest entity—that is, a charitable remainder trust, a pooled income fund, or a charitable gift annuity.

Direct distributions would be eligible for the exclusion only if made on or after the date the IRA owner attains age 70 1/2. Distributions to a split-interest entity would be eligible for the exclusion only if made on or after the date the IRA owner attains the age of 59 1/2. In the case of split-interest distributions, no person could hold an income interest in the amounts in the split-interest entity attributable to the charitable distribution other than the IRA owner, the IRA owner's spouse, or a charitable organization.

The exclusion would be applicable to direct distributions only if a charitable contribution deduction for the entire distribution would be allowable (not taking into account the percentage limitations). Similarly, the exclusion would apply in the case of a distribution to a split-interest entity only if a charitable deduction for the entire present value of the charitable interest otherwise would be allowable (again, without regard to the percentage limitations). [Act § 302] [9.10]

Property Valuations

The thresholds for imposing accuracy-related penalties on a person who claims a deduction for contributed

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property for which a qualified appraisal is required would be lowered. A *substantial valuation misstatement* would exist when the claimed value of donated property is 150 percent or more of the amount determined to be the correct value. A *gross valuation misstatement* would occur when the claimed value of donated property is 200 percent or more of the amount determined to be the correct value. The reasonable cause exception to the accuracy-related penalty would not apply in a case of a gross valuation misstatement.

A civil penalty would be imposed on any person who prepares an appraisal that is to be used to support a tax position if the appraisal results in a substantial or gross valuation misstatement. The penalty would be equal to the greater of $1,000 or 10 percent of the understatement of tax resulting from the misstatement, up to a maximum of 125 percent of the gross income derived from the appraisal.

The rules by which the IRS can discipline appraisers would be revised, as would the definition of a *qualified appraiser* and *qualified appraisal*. [Act § 320] [10.1]

Contributions of Food Inventory

Any taxpayer engaged in a business would be eligible to claim the enhanced deduction for contributions of food inventory; this deduction would be available only for food that qualifies as *apparently wholesome food*. For entities other than C corporations, the total deduction for contributions of food inventory in a tax year generally could not exceed 10 percent of the donor's net income for the year. The amount of the present-law enhanced deduction for eligible contributions of food inventory would be changed to the lesser of fair market value or twice the donor's basis in the inventory. [Act § 303] [9.3]

Contributions of Book Inventory

The present-law enhanced deduction for C corporations making charitable contributions of book inventory would be modified to be equal to the lesser of fair market value or twice the donor's basis. The fair market value for this purpose would be determined by reference to a bona fide published market price for the book.

This deduction would be confined to a *qualified book contribution*, which would be defined as a charitable contribution of books to a school, a public library, or other charitable organization (other than a standard private foundation) that is organized primarily to make books available to the public at no cost or to operate a literacy program. The donee would have to use the inventory in a manner consistent with its exempt purpose; not transfer the property in exchange for money, other property, or services; and provide the donor with a written statement that the (1) donee's use of the property will be in adherence with these requirements; (2) books are suitable, in terms of currency, content, and quantity, for use in the donee's educational programs; and (3) the donee will use the books in these programs. [Act § 305] [9.3]

Contributions of Clothing and Household Items

The IRS would be required to publish an itemized list of clothing and household items and assign an amount to each item. This amount would constitute the property's fair market value for deduction purposes, assuming the item is at least in good used condition. Otherwise, the deduction could not exceed 20 percent of the item's assigned amount; there would not be any deduction for an item that is not functional with respect to the use for which it was designed. [Act § 317] [10.1]

Contributions of Façade Easements

The rules for facade easements, with respect to property located in a registered historic district, would be revised, so that a charitable deduction would not be allowable with respect to a structure or land area in such a district. A charitable deduction would be allowable with respect to buildings, but the qualified real property interest that relates to the exterior of the building would have to preserve the entire exterior of the building, which would have to be habitable. The qualified real property interest would have to provide that no portion of the exterior of the building may be altered in a manner inconsistent with the historical character of the exterior. Donors would have to obtain a qualified appraisal of the real property interest and include it with the donor's tax return.

Donors claiming a deduction for a qualified conservation contribution with respect to the exterior of a building located in a registered historic district would be subject to a limitation on the amount allowed as a deduction equal to the greater of 3 percent of the fair market value of the underlying property or $10,000. As an alternative, the donor could pay the IRS $500, which would be dedicated to the agency's enforcement of qualified conservation contributions. [Act § 314] [9.7]

Contributions of Fractional Interests

Charitable organizations receiving a fractional interest in an item of tangible personal property would have to take actual possession of the item for a period of time corresponding substantially to the charity's percentage interest in the item. [Act § 319]

Contributions of Taxidermy

In the case of contributions of exempt-use taxidermy property with a claimed value of $500–$5,000, the individual must include with the Form 8283 a photograph of the taxidermy and comparable sales data for similar items within the previous six months. For larger deductions, the donor must request a statement of value from the IRS, similar to the statements obtained under present law for items of art. [Act § 315]

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Basis-Only Deduction for Tangible Personal Property

In an instance of a gift of tangible personal property that has appreciated in value, has been identified by the donee as for a use related to its exempt purposes, and for which a deduction of more than $5,000 is claimed, if the property is disposed of in the year of contribution, the donor's charitable deduction would be confined to the donor's basis in the property. [Act § 316]

Recapture of Gift Property Tax Benefit

In an instance of a gift of tangible personal property as described in the previous paragraph, except that the donee organization disposes of the property within three years of its receipt, the donor would be subject to recapture of the tax benefit. The donor would have to include as ordinary income in the year of the disposition an amount equal to any excess over the donor's basis in the property. [Act § 316]

Math and Science Partnership Gifts

The charitable contribution deduction limit of 10 percent of a corporation's contribution base would be raised to 15 percent in instances of eligible mathematics and science contributions to a qualified partnership. [MA]

Mileage Deduction for Volunteers

Volunteers could exclude from income certain mileage reimbursements provided by a charitable organization. An individual could not claim a charitable contribution deduction for these excluded amounts. [MA]

Qualified Artistic Contributions

Certain persons would be allowed to claim a charitable deduction at fair market value for contributions of literary, musical, artistic, or scholarly compositions, or similar property, or the related copyrights. The individual must have created the property through his or her personal efforts no less than 18 months prior to the contribution. These contributions would have to be made to organizations that will use the property for related exempt purposes. The donor would have to obtain an appraisal of the property and attach it to the appropriate tax return. [MA]

Qualified Conservation Contributions

The charitable contribution deduction limit would be raised from 30 percent of adjusted gross income (AGI) to 50 percent of AGI for qualified conservation contributions. This limit would be raised to 100 percent of AGI for eligible farmers and ranchers. Donors would be able to carry forward these deductions for 15 years. [MA] [9.7]

Deduction for Corporate Gifts of Computer Equipment

The provision that encourages businesses to contribute computer equipment software to schools by allowing an enhanced deduction would be extended through 2006. [Act § 217] [9.5]

Basis Adjustment to S Corporation Stock

The amount of a shareholder's basis reduction in the stock of an S corporation, by reason of a charitable contribution made by the corporation, would be equal to the shareholder's pro rata share of the adjusted basis of the contributed property. [Act § 304]

Early Withdrawals from Retirement Plans

The waiver of the 10-percent penalty tax for premature distributions from individual retirement plans and qualified retirement plans that Congress enacted to assist individuals who suffered an economic loss because of Hurricane Katrina (see the November issue) would be extended to victims of Hurricanes Rita and Wilma. [Act § 111]

Corporate Charitable Contributions

The temporary waiver of the percentage limitation in instances of corporate contributions of money for Hurricane Katrina relief (see the November issue) would be extended in instances of such contributions in connection with Hurricanes Rita and Wilma. [Act § 111] ◆

Each article in the newsletter on a tax-exempt organizations topic ends with a citation to the appropriate chapter(s) or subchapter(s) in Hopkins, *The Law of Tax-Exempt Organizations, Eighth Edition* (Wiley 2003; 2005 cumulative supplement). This is done to provide ready access to additional and background information concerning these articles. For example, underlying information concerning the first item in this issue regarding proposed revision of the law of tax-exempt organizations is available in Chapter 11 § 6 of the book, and thus the citation is referenced as [11.6].

Likewise, each article in the newsletter on a charitable giving topic ends with a citation to the appropriate chapter(s) or subchapter(s) in Hopkins, *The Tax Law of Charitable Giving, Third Edition* (Wiley 2005). Thus, underlying information concerning the first item in this issue regarding proposed revision of the tax law of charitable giving is available in Chapter 21 § 1 of the book and thus the citation is referenced as [21.1].

This newsletter is a stand-alone publication. (An inventory of articles in the newsletter since its inception in 1983, and a subject matter index, as well as an index of the court opinions, IRS revenue rulings and procedures, IRS technical advice memoranda, and IRS private letter rulings discussed in the newsletter, is available at www.nonprofitlawcenter.com.) For those who have the books, the newsletter also provides monthly updates. Both books are supplemented annually. Questions may be sent to bhopkins@pswslaw.com.

Bruce R. Hopkins' Nonprofit Counsel DOI:10.1002/npc