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Charitable Contribution Compliance

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I. Interest in Charitable Contributions

A. Government Reports and Correspondence

1. 2013 Joint Committee on Taxation Report

The Joint Committee on Taxation released a report in February 2013 providing an overview of rules relating to the federal tax treatment of charitable contributions, a discussion of economic issues related to federal incentives for charitable giving, and an analysis of various proposed changes to the charitable tax deduction laws. The House Committee on Ways and Means held a hearing on February 14, 2013 to hear the views of various stakeholders on proposed changes to the laws. Nearly all stakeholders opposed changes that could reduce charitable contributions.

2. Tax Gap: Requiring Information Reporting for Charitable Cash Contributions May Not Be an Effective Way to Improve Compliance

This May 2009 report issued by the Government Accounting Office (“GAO”) to the Senate Committee on Finance is available at <http://www.gao.gov/new.items/d09555.pdf>. The GAO studied available information for tax years 2001-06 and found the following statistics:

- a. Between 2001 and 2006, it is estimated that 28-30% of individual taxpayers claimed cash contribution deductions.
 - b. For the tax year 2001, 46% of taxpayers who deducted cash misreported, resulting in a total of \$13.8 billion in underreported net income.
 - c. An estimated 79% of the misreporting taxpayers overstated their contributions, with a median overstatement amount of \$504.
 - d. Of the taxpayers who overstated their cash contributions, about two-thirds overstated less than \$1,000.
 - e. Approximately 21% of the misreporting taxpayers, however, understated charitable contributions, with a median understatement of \$132.
 - f. A roughly equal percentage of self-preparers and those who used paid preparers misreported their cash contributions.
- #### **3. 2012 Treasury Inspector General for Tax Administration (“TIGTA”) Report**

TIGTA analyzed statistical samples of 2010 tax returns, and found that approximately 60% of the taxpayers who claimed more than \$5,000 in noncash

charitable contributions did not comply with the noncash charitable contribution reporting requirements. The contributions claimed totaled approximately \$201.6 million. TIGTA recommended that the U.S. Internal Revenue Service (“IRS”) expand procedures to identify tax returns claiming noncash charitable contributions that did not also attach an IRS Form 8283, Noncash Charitable Contributions, or qualified appraisal when required. TIGTA also recommended that the IRS develop processes to verify the accuracy of noncash charitable contributions.

4. 2014 Letter from Senators to Senate Finance Committee

On January 23, 2014, 33 senators sent a letter to the Senate Finance Committee in an effort to urge the Committee not to eliminate the charitable deduction. The senators noted that the charitable deduction had been in existence for almost 100 years, and asked that the federal government “affirm its long-standing dedication to encouraging private acts of charity and compassion, especially when our charities and the people they serve are facing so many challenges.”

B. Celebrity Contributions

1. Even Bill Clinton has utilized the charitable contribution deduction: he deducted \$2 each for used pair of underwear he donated to charity. *See* http://www.usatoday.com/money/perfi/taxes/2004-01-16-mym_x.htm and <http://www.forbes.com/forbes/2006/1211/218.html>.
2. Additionally, William Rehnquist utilized the valuation requirements in order to quantify the value of the robe he wore at Clinton’s impeachment trial. He obtained an appraisal from the auction house Sotheby’s, but would neither confirm nor deny whether he took a charitable deduction. *See* <http://articles.latimes.com/2000/jun/28/news/mn-45700>.

C. Pending Legislation in 113th Congress

1. H.R. 1479 would exempt charitable contribution deductions from the itemized deduction phase-out, which was restored by the American Taxpayer Relief Act of 2012.
2. H.R. 1212 would exclude from gross income reimbursements for costs of automobile use during the course of volunteering for a charitable organization.
3. H.R. 766 would create a minimum 30% tax rate for high-income taxpayers, but continue to permit a deduction for charitable contributions. Several competing bills contain this provision.
4. H.R. 892 would make certain charitable contribution provisions for S corporations permanent.

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