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S. 476 – The CARE Act of 2003

Calendar No. 22

Reported by the Senate Committee on Finance as an original bill on February 27, 2002; S. Rept. 108-11.

NOTEWORTHY

- By unanimous consent, when the Senate turns to S. 476, debate will be limited to four hours, equally divided, with two amendments in order and 30 minutes of debate for each amendment, equally divided: a managers' amendment; and an amendment by Senator Nickles related to conservation.

- The CARE Act of 2003 intends to assist those in need by encouraging charitable giving, saving, and fairness through a broad array of tools and strategies: 1) tax incentives to spur more private charitable giving; 2) programs to promote savings and economic self-sufficiency for low-income families; 3) technical assistance to help smaller social services providers do more; and 4) additional federal funding for important social service programs. The revenue provisions included in the act are offset with revenue increases.

- The bill as reported does *not* contain the so-called equal-treatment provision, which would have guaranteed that any nongovernmental organization involved in the delivery of a federally funded social service not have to remove art, icons, scripture, or other symbols, or to alter its name, because the symbols or name were religious, or to alter or remove provisions in its chartering documents that were religious, or to alter or remove religious qualifications of membership on its governing board.

- The managers' amendment is expected to add language that creates Compassion Capital Funds and Maternity Group Homes, as well as various tax provisions. The Nickles amendment is expected to amend language that encourages contributions of qualified real property for conservation purposes to allow such tax treatment to contributions of any qualified charity, not just conservation charities [see p. 7 of this Notice for details].

BILL PROVISIONS

Title I: Charitable Giving Incentives

Charitable Deduction for Nonitemizers

In the case of an individual taxpayer who does not itemize deductions, the bill allows a "direct charitable deduction" from adjusted gross income for charitable contributions paid in cash during the taxable year. This deduction is allowed in addition to the standard deduction. The deduction is available only for that portion of contributions actually made during the year that in the aggregate exceed $250 ($500 in the case of a joint return). The maximum deduction is $250 ($500 in the case of a joint return).

Under the bill, an individual who does not itemize on his return is not entitled to a charitable deduction for the first $250 of cash contributions made during the tax year, but is entitled to a deduction on a dollar-for-dollar basis for contributions of $251 to $500 (e.g., a $1 deduction in the case of $251 of contributions, and a $250 deduction in the case of $500 or more in cash contributions). Such an individual is not entitled to a deduction for contributions exceeding $500.

Tax-Free Distributions from IRA's for Charitable Purposes

The bill provides an exclusion from gross income for otherwise taxable IRA distributions from a traditional or a Roth IRA in the case of qualified charitable distributions. Special rules apply in determining the amount of an IRA distribution that is otherwise taxable. The present-law rules regarding taxation of IRA distributions and the deduction of charitable contributions continue to apply to distributions from an IRA other than qualified charitable distributions.

Charitable Deduction for Contributions of Food Inventory

The bill increases the amount of the present-law enhanced deduction for eligible contributions of food inventory to the lesser of fair market value or twice the taxpayer's basis in the inventory. For example, a taxpayer who makes an eligible donation of food that has a fair market value of $10 and a basis of $4 could take a deduction of $8 (twice basis). If the taxpayer's basis was $6 instead of $4, then the deduction would be $10 (fair market value).

Charitable Deductions for Contributions of Book Inventory

The bill modifies the present-law enhanced deduction for corporations so that it is equal to the lesser of fair market value or twice the taxpayer's basis in the case of qualified book contributions. For example, if a corporation made a qualified book contribution with a bona fide published market price of $10 and a basis of $4 it could take a deduction of $8 (twice the basis, less than market). If the taxpayer's basis is $6 instead of $4, then the deduction is $10.

Contribution for Scientific Property and Computer Technology/ Equipment

Scientific property used for research and computer technology and equipment property assembled by the taxpayer, in addition to property constructed by the taxpayer, is eligible for an enhanced deduction. The bill extends the enhanced deduction for qualified computer contributions to contributions made before January 1, 2006.

Contributions of Capital Gain Real Property Made for Conservation Purposes

Under S. 476, the 30-percent contribution base limitation on contributions of capital gain property by individuals does not apply to qualified conservation contributions (as defined under present law). Thus, individuals may include the fair market value of any qualified conservation contribution of capital gain property in determining the amount of the charitable contributions subject to the 50-percent contribution-base limitation. Individuals are allowed to carry over any qualified conservation contributions that exceed the 50-percent limitation for up to 15 years.

In the case of an eligible farmer or rancher, a qualified conservation contribution is allowable up to 100 percent of the taxpayer's contribution base (after taking into account other charitable contributions). This rule applies both to individuals and corporations. In addition, corporate (as well as non-corporate) eligible farmers and ranchers are allowed to carry over any excess qualified conservation contributions for up to 15 years.

Exclusion For Certain Sales Made For Qualifying Conservation Purposes

The bill provides a 25-percent exclusion from gross income of long-term capital gain from the qualifying sale or exchange of land, or an interest in land or water rights, provided that the land or interest in land or water rights constitutes an interest in real property that has been held by the taxpayer or the taxpayer's family at all times during the five years preceding the date of sale. The qualifying sale must be made to a qualified organization that intends that the acquired property be used for qualified conservation purposes in perpetuity.

Cost-Sharing Payments Under the Partners for Fish and Wildlife Program

The bill expands the types of qualified cost-sharing payments to include payments under the Partners for Fish and Wildlife Program.

Basis Adjustment to Stock of S Corporation Contributing Property

Allows an S corporation with one individual shareholder to make a charitable contribution of stock with a basis of $200 and a fair market value of $500. The shareholder will be treated as having made a $500 charitable contribution (or a lesser amount if the special rules of section 170(e) apply), and will reduce the basis of the S corporation stock by $200.

Deduction For Contributions of Certain Artistic and Scholarly Compositions

The bill provides that a deduction for "qualified artistic charitable contributions" generally is increased from the value under present law (generally, basis) to the fair market value of the property contributed, measured at the time of the contribution.

Exclusion for Certain Milage Reimbursements to Charitable Volunteers

Under the bill, reimbursement by an organization described in section 170(c) (including public charities and private foundations) to a volunteer for the costs of using an automobile in connection with providing donated services is excludable from the gross income of the volunteer.

Further Provisions

Title II: Improved Oversight of Tax-Exempt Organizations

This title improves oversight of tax-exempt organizations through an expansion of disclosure requirements and modifications of reporting transactions and expansion of penalties for improper filings. The bill suspends the tax-exempt status of an organization that is exempt from tax under section 501(a) for any period during which the organization is designated or identified by U.S. Federal authorities as a terrorist organization or supporter of terrorism.

Title III: Other Charitable and Exempt Organization Provisions

Title III streamlines provisions for organizations seeking 501(c)(3) designation, thereby making it easier to qualify for Federal grants and contracts. The 501(c)(3) status confirms that an organization is a tax-exempt charity, eligible to receive tax-exempt donations.

Although any group that applies for that status can hold itself out as a 501(c)(3), once it sends the IRS its application, a number of government programs will not consider applications from any group that has not yet received approval of its application from the IRS – a process that sometimes can take several months. To help facilitate that process, the bill requires the IRS to expedite the 501(c)(3) application of any group that needs that status to apply for a government grant or contract. And, in an effort to help the smallest of these groups, it requires the IRS to waive the application fee for groups whose annual revenues do not exceed $50,000.

This section also includes a modification of the excise tax on unrelated business taxable income of charitable remainder trusts and other miscellaneous provisions.

Title IV: Social Services Block Grant

This title would increase federal funding for the Social Services Block Grant (SSBG). SSBG provides flexible funds to states for such vital programs such as Meals on Wheels, child and elderly protective services, and support services for the disabled.

The bill increases SSBG funding to $1.9 billion (from $1.7 billion) for fiscal year 2003 and $2.8 billion for fiscal year 2004. In addition, the amount of Temporary Assistance for Needy Families (TANF) welfare block grants that states may transfer to SSBG is restored to 10 percent.

Title V: Individual Development Accounts

Individual Development Accounts (IDAs) are special savings accounts that offer matching contributions from the sponsoring bank or community organization, on the condition that the proceeds go to buying a home, starting or expanding a small business, or paying for post-secondary education.

Specifically, the bill would provide a dollar-for-dollar tax credit to offset the matching contributions of up to $500 per account. This incentive, which is estimated to cost $487 million over the next 10 years, could help create as many as 300,000 new accounts over that time. Eligibility would be limited to individual filers with an adjusted gross income (AGI) of less than $18,000; head of households with an AGI of less than $30,000; and married couples filing jointly with an AGI of less than $38,000.

Title VI: Management of Exempt Organizations

This section authorizes an appropriation of $80 million for each fiscal year to carry out the administration of exempt organizations by the Internal Revenue Service. The current appropriation is approximately $67 million.

Title VII: Revenue Provisions

All reductions in revenues included in this legislation are offset by increases in revenues elsewhere.

BACKGROUND

Originally introduced in the Senate in February of 2002, the CARE Act was welcomed by the White House as representing an agreement to move a faith-based initiative out of the Senate. The legislation originally contained a provision referred to as "Equal Treatment for Nongovernmental Providers." This provision guaranteed that a nongovernmental organization involved in the delivery of a federally funded social service could not be required to remove art, icons, scripture, or other symbols, or to alter its name, because the symbols or name were religious, or to alter or remove provisions in its chartering documents that were religious, or to alter or remove religious qualifications of membership on governing boards. These equal-treatment provisions applied to all social service programs administered by the federal government (excepting educational assistance under major federal education acts) or by a state or local government using federal financial assistance (not counting tax credits, deductions, or exemptions).

Due in large part to the controversy surrounding the equal-treatment provision, the Senate was unable to pass the CARE Act in 2002. In an effort to remove the controversy surrounding the bill and increase its chances for passage, the equal-treatment provision was removed from the 2003 version of the CARE Act.

ADMINISTRATION POSITION

At press time, the Office of Management and Budget had not released its official Statement of Administration Policy, but one was anticipated. Many of the provisions in the bill designed to encourage charitable giving were contained in the President's budget submission to Congress.

COST

According to the Joint Committee on Taxation, passage of S. 476 would reduce revenues by $3.2 billion over the next five years, and increase revenues by $28 million over the next 10 years.

POSSIBLE AMENDMENTS

Under the unanimous consent agreement, S. 476 provides for consideration of only two amendments, which are described below.

Managers' Amendment:

The managers' amendment is expected to include language that would create a Compassion Capital Fund and Maternity Group Homes.

Compassion Capital Fund

The bill creates a Compassion Capital Fund and authorizes four agencies to distribute its resources. HHS, DOJ, HUD and the Corporation for National and Community Service will collectively have over $150 million a year to offer technical assistance to community-based organizations for activities such as writing and managing grants, assisting in incorporating and gaining tax-exempt status, information on capacity building and help researching and replicating model social service programs.

Maternity Group Homes

The 1996 welfare reform law requires that minors live at home under adult supervision or in a maternity group home in order to receive benefits. The bill creates a separate funding stream for maternity group home programs and authorizes $33 million in additional funding.

Nickles Amendment:

The amendment would address the provision in the bill as reported that allows individuals to exclude from long-term capital gains tax 25 percent of the gain on the sale of land to a qualified conservation organization for a qualified conservation purpose. The Nickles amendment would amend the bill to provide the same exclusion for land sold to any public charity (not just a conservation oganization) for any charitable purpose.