

The Pension Protection Act of 2006 contains a package of provisions to help prevent abuse in the charitable sector and provide additional tax incentives for Americans to give more resources to the charitable community. Here is a brief overview of those provisions.

Charitable reform

The Act also imposes new requirements and restrictions on donors and exempt organizations. The new rules:

. . . double the fines and penalties applicable to certain activities by charities, social welfare organizations, private foundations and exempt organization managers.

Clothing and Household Items. . . . prohibits deductions for contributions of clothing and household items unless they are in good used condition or better. In addition, IRS may deny a deduction for any item with minimal monetary value. These rules, which are effective for contributions made after August 17, 2006, don't apply to any contribution of a single item of clothing or a household item for which a deduction of more than \$500 is claimed if the taxpayer includes with his return a qualified appraisal for the donated property.

Cash Contributions. . . . require that in the case of a charitable contribution of money, regardless of the amount, the donor must maintain a cancelled check, bank record or receipt from the donee organization showing the name of the donee organization, the date of the contribution, and the amount of the contribution. This is effective for contributions made in tax years beginning after August 17, 2006.

. . . limit the basis for donated taxidermy property to the cost of preparing, stuffing and mounting an animal and provide that the value of the deduction is equal to the lesser of basis or fair market value.

. . . require the recapture of any tax benefit derived from the contribution of property with respect to which a fair market value deduction was claimed if the property is not used for an exempt purpose of the donee organization. The change is effective for contributions made after September 1, 2006.

. . . require that donors contributing a fractional interest in an item of tangible personal property to a charity contribute their remaining interest in the item to the same charity. The donee charity must take complete ownership of the item within 10 years or at the death of the donor, whichever occurs first. In addition, the donee must have (i) taken possession of the item at least once during the 10-year period as long as the donor remains alive, and (ii) used the item for its exempt purpose. Failure to comply with these requirements results in the donor's recapture of all charitable deductions claimed for fractional interest gifts of the item plus interest and the imposition of a 10% penalty. The change is effective for contributions, bequests, and gifts made after August 17, 2006.

. . . lower the threshold for imposing accuracy-related penalties on a taxpayer who claims a deduction for donated property for which a qualified appraisal is required.

. . . require that unrelated business income tax returns of section 501(c)(3) organizations be made publicly available.

Charitable Giving Incentives

The Act contains a charitable giving incentives package designed to encourage charitable donations. The incentives include:

- Tax-free distributions from IRAs for charitable purposes. The Act permits taxpayers who have reached age 70-1/2, to exclude from gross income certain distributions of up to \$100,000 from a traditional individual retirement account (IRA) or Roth IRA which would otherwise be included in income. The charitable distribution must be made to a tax-exempt organization to which deductible contributions can be made. The change is effective for two years through 2007.
- The tax treatment of certain payments to controlling exempt organizations. Under prior law, rent, royalty, annuity, and interest income paid to a tax-exempt organization by a controlled taxable subsidiary was generally treated as unrelated business income, which was taxable to the tax-exempt parent organization. The new law modifies that rule such that only the portion of such payments which is not regarded as fair market value will be treated as unrelated business taxable income. Exempt organizations are required to report certain amounts received from controlled organizations. The provision is effective for two years through 2007.
- Qualified conservation contributions. The new law raises the limit on deducting contributions of capital gain property by individuals -- from 30% of adjusted gross income to 50% -- for qualified conservation contributions. The charitable deduction limit is raised to 100% for qualified conservation contributions by individual and corporate farmers and ranchers, as long as the contribution includes a restriction that the land remain available for farming or ranching. Unused contributions can be carried forward for up to 15 years. The provision is effective for two years through 2007.