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(Original Signature of Member)

117TH CONGRESS
2D SESSION

H. R. _____

To amend the Internal Revenue Code of 1986 to modify rules relating to donor advised funds, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Ms. PINGREE introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Internal Revenue Code of 1986 to modify rules relating to donor advised funds, and for other purposes.

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 “Accelerating Chari-
5 table Efforts Act” or the “ACE Act”.

1 **SEC. 2. ADDITIONAL RESTRICTIONS ON DEDUCTIONS FOR**
2 **CONTRIBUTIONS TO DONOR ADVISED FUNDS.**

3 (a) **LIMITATION ON DEDUCTION.**—Section 170(f) of
4 the Internal Revenue Code of 1986 is amended by adding
5 at the end the following new paragraph:

6 “(19) **TIME FOR DEDUCTION OF CONTRIBU-**
7 **TIONS TO DONOR ADVISED FUNDS.**—

8 “(A) **NONQUALIFIED DONOR ADVISED**
9 **FUNDS.**—

10 “(i) **IN GENERAL.**—In the case of a
11 contribution to a donor advised fund (as
12 defined in section 4966(d)(2)) which is not
13 a qualified donor advised fund or a quali-
14 fied community foundation donor advised
15 fund—

16 “(I) in the case of any contribu-
17 tion of property other than cash, no
18 deduction shall be allowed under this
19 section unless the sponsoring organi-
20 zation sells such property for cash,

21 “(II) no deduction shall be al-
22 lowed under this section for any con-
23 tribution before the taxable year that
24 includes the date on which the spon-
25 soring organization makes a quali-
26 fying distribution of such contribution

1 (or the proceeds from the sale of such
2 contribution), and

3 “(III) the amount of the deduc-
4 tion shall be equal to the amount of
5 the qualifying distribution.

6 “(ii) QUALIFYING DISTRIBUTION.—
7 For purposes of this subparagraph, the
8 term ‘qualifying distribution’ means any
9 distribution which is not a taxable distribu-
10 tion (as defined in section 4966(c), deter-
11 mined without regard to paragraph (2)(C)
12 thereof).

13 “(iii) ORDERING RULE.—For pur-
14 poses of this subparagraph, distributions
15 shall be treated as made from contribu-
16 tions (and any earnings attributable there-
17 to) on a first-in, first-out basis.

18 “(B) NONPUBLICLY TRADED ASSETS OF
19 QUALIFIED DONOR ADVISED FUNDS.—

20 “(i) IN GENERAL.—In the case of a
21 contribution of a non-publicly traded asset
22 to a qualified donor advised fund or a
23 qualified community foundation donor ad-
24 vised fund—

1 “(I) no deduction shall be al-
2 lowed under this section for any tax-
3 able year before the taxable year that
4 includes the date on which the spon-
5 soring organization sells the asset,
6 and

7 “(II) the amount of the deduc-
8 tion allowed under subsection (a) shall
9 not exceed the amount of gross pro-
10 ceeds received from such sale and
11 credited to the account or fund identi-
12 fied with the taxpayer.

13 “(ii) NON-PUBLICLY TRADED
14 ASSET.—For purposes of this subpara-
15 graph, the term ‘non-publicly traded asset’
16 means any asset for which (as of the date
17 of the contribution) market quotations are
18 not readily available on an established se-
19 curities market.

20 “(C) CONTEMPORANEOUS WRITTEN AC-
21 KNOWLEDGEMENT.—

22 “(i) IN GENERAL.—In the case of a
23 contribution described in subparagraph (A)
24 or (B), no deduction shall be allowed under
25 subsection (a) for such contribution unless

1 the taxpayer substantiates the contribution
2 by a contemporaneous written acknowl-
3 edgement of the contribution by the spon-
4 soring organization that meets the require-
5 ments of clause (ii).

6 “(ii) CONTENT OF ACKNOWLEDGE-
7 MENT.—An acknowledgement meets the
8 requirements of this subparagraph if it in-
9 cludes the following information:

10 “(I) The name of the donor.

11 “(II) In the case of a contribu-
12 tion described in subparagraph (A)—

13 “(aa) if such contribution is
14 described in subparagraph
15 (A)(i)(I), a certification that the
16 asset was sold for cash and the
17 amount of cash received in such
18 sale, and

19 “(bb) a certification that a
20 qualifying distribution has been
21 made from such contribution (or
22 the proceeds from the sale of
23 such contribution), an identifica-
24 tion of the amount of such quali-
25 fying distribution, and a state-

1 ment that the deductible amount
2 may not exceed the amount of
3 such qualifying distribution.

4 “(III) In the case of a contribu-
5 tion described in subparagraph (B), a
6 certification that the asset was sold
7 and the amount of the gross proceeds
8 received from such sale and credited
9 to the account or fund of the tax-
10 payer, together with a statement that
11 the deductible amount may not exceed
12 the amount of the gross proceeds re-
13 ceived from the sale of the asset and
14 credited to the account or fund of the
15 taxpayer.

16 “(iii) CONTEMPORANEOUS.—For pur-
17 poses of clause (i), an acknowledgement
18 shall be considered to be contemporaneous
19 if the sponsoring organization provides it
20 within 30 days of—

21 “(I) in the case of a contribution
22 described in subparagraph (A), the
23 date of the qualifying distribution,
24 and

1 “(II) in the case of a contribu-
2 tion described in subparagraph (B),
3 the date that the gross proceeds from
4 the sale of the asset are credited to
5 the account or fund of the taxpayer.

6 “(iv) INFORMATION TO SECRETARY.—
7 A sponsoring organization required to pro-
8 vide an acknowledgement under this para-
9 graph shall provide to the Secretary the in-
10 formation contained in the acknowledge-
11 ment. Such information shall be provided
12 at such time and in such manner as the
13 Secretary may prescribe.

14 “(D) QUALIFIED DONOR ADVISED FUND.—
15 For purposes of this paragraph, the term
16 ‘qualified donor advised fund’ means a donor
17 advised fund (as defined in section 4966(d)(2))
18 established under an agreement that requires,
19 for the duration of such fund, the termination
20 of any advisory privilege with respect to any
21 contribution (including any earnings thereon)
22 made by any donor (or any person appointed or
23 designated by a donor) before the last day of
24 the 14th taxable year beginning after the tax-
25 able year in which the contribution was made.

1 “(E) QUALIFIED COMMUNITY FOUNDATION
2 DONOR ADVISED FUND.—For purposes of this
3 paragraph—

4 “(i) IN GENERAL.—The term ‘quali-
5 fied community foundation donor advised
6 fund’ means a donor advised fund (as de-
7 fined in section 4966(d)(2)) which is
8 owned or controlled by a qualified commu-
9 nity foundation and which meets one or
10 more of the requirements of clauses (ii) or
11 (iii).

12 “(ii) MAXIMUM VALUE OF ADVISORY
13 PRIVILEGES.—

14 “(I) IN GENERAL.—A donor ad-
15 vised fund meets the requirements of
16 this clause if each individual who has
17 advisory privileges with respect to
18 such fund does not have advisory
19 privileges with respect to 1 or more
20 donor advised funds held by the quali-
21 fied community foundation with an
22 aggregate value at any time after the
23 date of the enactment of this para-
24 graph in excess of \$1,000,000.

1 “(II) INFLATION ADJUST-
2 MENT.—In the case of any taxable
3 year beginning after 2021, the
4 \$1,000,000 amount in subclause (I)
5 shall be increased by an amount equal
6 to such dollar amount multiplied by
7 the cost-of-living adjustment deter-
8 mined under section 1(f)(3) for the
9 calendar year in which the taxable
10 year begins, determined by sub-
11 stituting in subparagraph (A)(ii)
12 thereof ‘calendar year 2020’ for ‘cal-
13 endar year 2016’. If any amount as
14 adjusted under the preceding sentence
15 is not a multiple of \$10,000, such dol-
16 lar amount shall be rounded to the
17 next lowest multiple of \$10,000.

18 “(iii) MINIMUM PAYOUT.—A donor
19 advised fund meets the requirements of
20 this paragraph if the fund is established
21 under an agreement that requires that the
22 fund make qualifying distributions (as de-
23 fined in subparagraph (A)(ii)) each cal-
24 endar year in an amount not less than 5
25 percent of the value of the fund (deter-

1 mined as of the last day of the preceding
2 calendar year).

3 “(iv) QUALIFIED COMMUNITY FOUN-
4 DATION.—The term ‘qualified community
5 foundation’ means an organization—

6 “(I) which is described in section
7 501(c)(3),

8 “(II) which is organized and op-
9 erated for the purpose of under-
10 standing and serving the needs of a
11 particular geographic community that
12 is no larger than 4 States by engaging
13 donors and pooling donations to cre-
14 ate charitable funds in direct further-
15 ance of those needs, and

16 “(III) which holds substantial as-
17 sets (but in no case less than 25 per-
18 cent of the organization’s total assets)
19 outside of donor advised funds.

20 “(v) SPONSORING ORGANIZATION.—
21 The term ‘sponsoring organization’ has the
22 meaning given such term under section
23 4966(d)(1).”.

24 (b) OTHER REQUIREMENTS FOR QUALIFIED DONOR
25 ADVISED FUNDS.—Section 170(f)(18) of the Internal

1 Revenue Code of 1986 is amended by striking “and” at
2 the end of subparagraph (A)(ii), by striking the period at
3 the end of subparagraph (B) and inserting “, and”, and
4 by adding at the end the following new subparagraph:

5 “(C) in the case of a contribution to a
6 qualified donor advised fund (as defined in
7 paragraph (19)(D)), the taxpayer identifies for
8 the sponsoring organization a preferred organi-
9 zation for the purposes of making distributions
10 of so much of the amount contributed (and any
11 earnings attributable thereto) as has not been
12 distributed before the end of the last day of the
13 14th taxable year beginning after the taxable
14 year in which the contribution was made.”.

15 (c) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to contributions made after the
17 date of the enactment of this Act.

18 **SEC. 3. FAILURE OF DONOR ADVISED FUNDS TO DIS-**
19 **TRIBUTE CONTRIBUTIONS.**

20 (a) IN GENERAL.—Subchapter G of chapter 42 of the
21 Internal Revenue Code of 1986 is amended by adding at
22 the end the following new section:

1 **“SEC. 4967A. FAILURE OF DONOR ADVISED FUNDS TO DIS-**
2 **TRIBUTE CONTRIBUTIONS.**

3 “(a) IN GENERAL.—In the case of a contribution
4 which is held in a donor advised fund (other than a quali-
5 fied community foundation donor advised fund), there is
6 hereby imposed a tax equal to 50 percent of so much of
7 the portion of such contribution (and any earnings attrib-
8 utable thereto) as has not been distributed by the spon-
9 soring organization in a qualifying distribution before the
10 last day of the sixth month following the last day of the
11 applicable taxable year with respect to such contribution.
12 The tax imposed by this subsection shall be paid by such
13 sponsoring organization.

14 “(b) APPLICABLE TAXABLE YEAR.—For purposes of
15 this section, the term ‘applicable taxable year’ means—

16 “(1) in the case of a contribution to a qualified
17 donor advised fund, the 14th taxable year beginning
18 after the taxable year in which the contribution was
19 made, and

20 “(2) in the case of a contribution to any other
21 donor advised fund (other than a qualified commu-
22 nity foundation donor advised fund), the 49th tax-
23 able year beginning after the taxable year in which
24 the contribution was made.

25 “(c) DEFINITIONS AND OTHER RULES.—

1 “(1) QUALIFIED DONOR ADVISED FUND.—The
2 term ‘qualified donor advised fund’ has the meaning
3 given such term under section 170(f)(19)(D).

4 “(2) QUALIFIED COMMUNITY FOUNDATION
5 DONOR ADVISED FUND.—The term ‘qualified com-
6 munity foundation donor advised fund’ has the
7 meaning given such term under section
8 170(f)(19)(E).

9 “(3) QUALIFYING DISTRIBUTION.—The term
10 ‘qualifying distribution’ has the meaning given such
11 term under section 170(f)(19)(A)(ii).

12 “(4) ORDERING RULE.—Rules similar to the
13 rules of section 170(f)(19)(A)(iii) shall apply for
14 purposes of this section.”.

15 (b) CONFORMING AMENDMENT.—The table of sec-
16 tions for subchapter G of chapter 42 of such Code is
17 amended by adding at the end the following new item:

“Sec. 4967A. Failure of donor advised funds to distribute contributions.”.

18 (c) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to contributions made after the
20 date of the enactment of this Act.

1 **SEC. 4. TREATMENT OF PRIVATE FOUNDATION ADMINIS-**
2 **TRATIVE EXPENSES PAID TO DISQUALIFIED**
3 **PERSONS.**

4 (a) **IN GENERAL.**—Section 4942(g) of the Internal
5 Revenue Code of 1986 is amended by adding at the end
6 the following new paragraph:

7 “(5) **DISALLOWANCE OF ADMINISTRATIVE EX-**
8 **PENSES PAID TO DISQUALIFIED PERSONS.**—

9 “(A) **IN GENERAL.**—For purposes of para-
10 graph (1)(A), administrative expenses paid to
11 any person described in subparagraph (B) shall
12 not be treated as a qualifying distribution.

13 “(B) **PERSON DESCRIBED.**—A person is
14 described in this subparagraph if such person is
15 a disqualified person (as defined in section
16 4946(a)(1)) with respect to the private founda-
17 tion, other than a foundation manager (as de-
18 fined in section 4946(b)(1)) of such private
19 foundation who is not a member of the family
20 (as defined in section 4946(d)) of any indi-
21 vidual described in subparagraph (A) or (C) of
22 section 4946(a)(1).”.

23 (b) **EFFECTIVE DATE.**—The amendment made by
24 this section shall apply to taxable years beginning after
25 December 31, 2021.

1 “(1) IN GENERAL.—For purposes of subsection
2 (a)(2), except as otherwise provided in this sub-
3 section, all amounts received from sponsoring orga-
4 nizations (as defined in section 4966(d)(1))—

5 “(A) shall not be treated as support re-
6 ceived from an organization described in section
7 170(b)(1)(A), and

8 “(B) shall be treated as support received
9 from one person.

10 “(2) EXCEPTION WHERE DONOR IDENTIFIED.—

11 In the case of support from a sponsoring organiza-
12 tion which is provided from funds which are identi-
13 fied with a donor to a donor advised fund (as de-
14 fined in section 4966(d)(2)) and the sponsoring or-
15 ganization identifies such donor, such support shall
16 be treated as provided by such donor.

17 “(3) EXCEPTION FOR AMOUNTS NOT CONTRIB-
18 UTED FROM DONOR ADVISED FUNDS.—Paragraph
19 (1) shall not apply to any amount if the sponsoring
20 organization specifies that—

21 “(A) the amount is not a distribution from
22 a donor advised fund (as so defined), and

23 “(B) no donor (or any person appointed or
24 designated by such donor) had advisory privi-

1 leges with respect to the provision of the sup-
2 port.”.

3 (b) DETERMINATION OF CONTRIBUTION LIMITA-
4 TIONS.—Section 170(b)(1)(A) of such Code is amended by
5 adding at the end the following: “For purposes of clause
6 (vi), rules similar to the rules of section 509(g) shall
7 apply.”.

8 (c) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to contributions made in taxable
10 years beginning after the date of the enactment of this
11 Act.

12 **SEC. 7. EXEMPTION FROM TAX ON INVESTMENT INCOME**
13 **FOR CERTAIN PRIVATE FOUNDATIONS MAK-**
14 **ING SIGNIFICANT QUALIFYING DISTRIBU-**
15 **TIONS.**

16 (a) IN GENERAL.—Section 4940 of the Internal Rev-
17 enue Code of 1986 is amended by adding at the end the
18 following new subsection:

19 “(e) EXEMPTION FOR FOUNDATIONS MAKING SIG-
20 NIFICANT QUALIFYING DISTRIBUTIONS.—No tax shall be
21 imposed by this section for any taxable year on any private
22 foundation if such private foundation makes qualifying
23 distributions (as defined in section 4942(g)) during such
24 taxable year in an amount that is not less than 7 percent
25 of the excess of—

1 “(B) REQUIREMENTS.—A private founda-
2 tion meets the requirements of this subpara-
3 graph if, at the time of its establishment and
4 at all times thereafter—

5 “(i) such private foundation has a du-
6 ration specified in its governing documents
7 of not more than 25 years, and

8 “(ii) such private foundation makes
9 no distributions to disqualified private
10 foundations.

11 “(C) DISQUALIFIED PRIVATE FOUNDA-
12 TION.—For purposes of this subsection, the
13 term disqualified private foundation means,
14 with respect to the private foundation described
15 in subparagraph (B), another private founda-
16 tion with respect to which there is a disqualified
17 person who is also a disqualified person with re-
18 spect to such private foundation described in
19 subparagraph (B).

20 “(2) RECAPTURE TAX.—

21 “(A) IN GENERAL.—If—

22 “(i) no tax is imposed under sub-
23 section (a) on a private foundation by rea-
24 son of paragraph (1), and

25 “(ii) such private foundation—

1 “(I) fails to meet the require-
2 ments of paragraph (1)(B) in any
3 subsequent taxable year,

4 “(II) has a duration of more
5 than 25 years, or

6 “(III) makes a distribution to a
7 disqualified private foundation,
8 a tax shall be imposed on such foundation
9 in the amount determined under subpara-
10 graph (B) for the first taxable year in
11 which such private foundation is described
12 in clause (ii).

13 “(B) AMOUNT OF TAX.—The amount of
14 tax determined under this subparagraph is the
15 aggregate amount of taxes which would have
16 been imposed on such private foundation for all
17 taxable years before the first taxable year in
18 which such foundation was described in sub-
19 paragraph (A)(ii) if paragraph (1) had not ap-
20 plied.”.

21 (b) EFFECTIVE DATE.—The amendment made by
22 this section shall apply to taxable years beginning after
23 the date of the enactment of this Act.