

115TH CONGRESS
2D SESSION

H. R. 6616

To amend the Internal Revenue Code of 1986 to provide for flexible giving accounts, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 26, 2018

Mr. PAULSEN (for himself, Mr. GALLAGHER, Mr. WALBERG, Mr. POCAN, Mrs. BUSTOS, and Mr. BERA) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to provide for flexible giving accounts, 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 “Everyday Philan-
5 thropist Act”.

6 **SEC. 2. FLEXIBLE GIVING ACCOUNTS.**

7 (a) IN GENERAL.—Subsection (a) of section 132 of
8 the Internal Revenue Code of 1986 is amended by striking
9 “or” at the end of paragraph (7), by striking the period

1 at the end of paragraph (8) and inserting “, or”, and by
2 inserting after paragraph (8) the following:

3 “(9) flexible giving account.”.

4 (b) FLEXIBLE GIVING ACCOUNT.—Section 132 of
5 such Code is amended by redesignating subsection (o) as
6 subsection (p) and by inserting after subsection (n) the
7 following:

8 “(o) FLEXIBLE GIVING ACCOUNT.—

9 “(1) IN GENERAL.—

10 “(A) FLEXIBLE GIVING ACCOUNT.—For
11 purposes of this subsection, a flexible giving ac-
12 count is an account under an arrangement
13 which is a separate written plan of an employer
14 for the exclusive benefit of all eligible employees
15 under which—

16 “(i) an employee may elect—

17 “(I) to receive a reduction in
18 compensation and have the employer
19 deposit the amount of the reduction in
20 a flexible giving account of the elect-
21 ing employee, and

22 “(II) before the reduction under
23 subclause (I), to designate one or
24 more entities to which distributions
25 are to be made from the account,

1 “(ii) the employer, as soon after the
2 deposit under clause (i)(I) as practicable,
3 makes the disbursements designated under
4 clause (i),

5 “(iii) the employer provides reasonable
6 notification of the availability and terms of
7 the arrangement to all eligible employees,

8 “(iv) the employer maintains a sepa-
9 rate flexible giving account on behalf of
10 each employee for whom an election is in
11 effect clause (i), and

12 “(v) the employer agrees to furnish to
13 each participating employee, on or before
14 January 31 of each year, a written ac-
15 counting of the employee’s flexible giving
16 account showing deposits and disburse-
17 ments during the previous calendar year.

18 “(B) MAXIMUM REDUCTION.—The amount
19 of a reduction under subparagraph (A) for a
20 taxable year shall not exceed \$5,000.

21 “(2) ELIGIBLE EMPLOYEE.—For purposes of
22 this subsection—

23 “(A) IN GENERAL.—

24 “(i) ELIGIBLE EMPLOYEE.—The term
25 ‘eligible employee’ means, with respect to a

1 flexible giving account, any employee who
2 is not a highly compensated or key em-
3 ployee and who is eligible to participate in
4 the arrangement.

5 “(ii) HIGHLY COMPENSATED EM-
6 PLOYEE.—The term ‘highly compensated
7 employee’ has the meaning given such term
8 by section 414(q).

9 “(iii) KEY EMPLOYEE.—The term
10 ‘key employee’ has the meaning given such
11 term by section 416(i).

12 “(B) CERTAIN EMPLOYEES MAY BE EX-
13 CLUDED.—For purposes of subparagraph (A),
14 an employer may elect to exclude under the ar-
15 rangement described in paragraph (1) any em-
16 ployee who—

17 “(i) has not attained the age of 21 be-
18 fore the close of a plan year of the ar-
19 rangement,

20 “(ii) has less than 1 year of service
21 with the employer as of any day during the
22 plan year, and

23 “(iii) is described in section
24 410(b)(3)(C) (relating to nonresident
25 aliens working outside the United States).

1 “(C) SHORTER SERVICE PERIOD; YOUNGER
2 AGE.—An arrangement may provide a shorter
3 period of service or younger age for purposes of
4 subparagraph (B).

5 “(3) TAX TREATMENT OF DISTRIBUTIONS.—

6 “(A) IN GENERAL.—Any distribution from
7 a flexible giving account shall be includible in
8 the gross income of the distributee in the man-
9 ner as provided in section 72.

10 “(B) EXCEPTION FOR CHARITABLE CON-
11 TRIBUTIONS.—

12 “(i) IN GENERAL.—Subparagraph (A)
13 shall not apply to any distribution which is
14 a charitable contribution made pursuant to
15 paragraph (1).

16 “(ii) COORDINATION WITH SECTION
17 170.—Distributions from the flexible giv-
18 ing account of an employee—

19 “(I) shall be treated as a chari-
20 table contribution of the employee,

21 “(II) shall not be taken into ac-
22 count under section 170(a) (relating
23 to allowance of deduction), but

1 “(III) shall be taken into account
2 under section 170(b) (relating to per-
3 centage limitation).

4 “(C) ADDITIONAL TAX FOR DISTRIBUTIONS NOT USED FOR CHARITABLE PURPOSES.—The tax imposed by this chapter for
5 any taxable year on any taxpayer from whose
6 flexible giving account a distribution is made
7 that is includible in gross income shall be in-
8 creased by 20 percent of the amount which is
9 so includible.
10 so includible.

11 “(D) IDENTIFYING INFORMATION.—No
12 distribution shall be excluded from the gross in-
13 come under subparagraph (B) unless the tax-
14 payer provides on the return of tax the name
15 and address of the entity to whom the distribu-
16 tion is made. In the case of a failure to provide
17 the information required by the preceding sen-
18 tence, the preceding sentence shall not apply if
19 it is shown that the taxpayer exercised due dili-
20 gence in attempting to provide the information
21 so required.
22 so required.

23 “(4) CHARITABLE CONTRIBUTION.—For pur-
24 poses of this section, the term ‘charitable contribu-
25 tion’ has the meaning given such term by section

1 170(c), except that such term irrevocable transfers
2 of funds and not just a pledges or agreement to
3 make a transfer in the future.”.

4 (c) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to taxable years beginning after
6 the date of the enactment of this Act.

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