

111TH CONGRESS  
1ST SESSION

# S. 405

To amend the Internal Revenue Code of 1986 to provide that a deduction equal to fair market value shall be allowed for charitable contributions of literary, musical, artistic, or scholarly compositions created by the donor.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 10, 2009

Mr. LEAHY (for himself, Mr. BENNETT, Mr. BAYH, Mrs. BOXER, Mr. BROWN, Mr. COCHRAN, Mr. DODD, Mr. DURBIN, Mr. JOHNSON, Mr. KENNEDY, Mr. SANDERS, Mr. SCHUMER, and Mr. WHITEHOUSE) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 to provide that a deduction equal to fair market value shall be allowed for charitable contributions of literary, musical, artistic, or scholarly compositions created by the donor.

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 “Artist-Museum Part-  
5 nership Act”.

1 **SEC. 2. CHARITABLE CONTRIBUTIONS OF CERTAIN ITEMS**  
2 **CREATED BY THE TAXPAYER.**

3 (a) IN GENERAL.—Subsection (e) of section 170 of  
4 the Internal Revenue Code of 1986 (relating to certain  
5 contributions of ordinary income and capital gain prop-  
6 erty) is amended by adding at the end the following new  
7 paragraph:

8 “(8) SPECIAL RULE FOR CERTAIN CONTRIBU-  
9 TIONS OF LITERARY, MUSICAL, OR ARTISTIC COM-  
10 POSITIONS.—

11 “(A) IN GENERAL.—In the case of a quali-  
12 fied artistic charitable contribution—

13 “(i) the amount of such contribution  
14 shall be the fair market value of the prop-  
15 erty contributed (determined at the time of  
16 such contribution), and

17 “(ii) no reduction in the amount of  
18 such contribution shall be made under  
19 paragraph (1).

20 “(B) QUALIFIED ARTISTIC CHARITABLE  
21 CONTRIBUTION.—For purposes of this para-  
22 graph, the term ‘qualified artistic charitable  
23 contribution’ means a charitable contribution of  
24 any literary, musical, artistic, or scholarly com-  
25 position, or similar property, or the copyright  
26 thereon (or both), but only if—

1           “(i) such property was created by the  
2           personal efforts of the taxpayer making  
3           such contribution no less than 18 months  
4           prior to such contribution,

5           “(ii) the taxpayer—

6                 “(I) has received a qualified ap-  
7                 praisal of the fair market value of  
8                 such property in accordance with the  
9                 regulations under this section, and

10                “(II) attaches to the taxpayer’s  
11                income tax return for the taxable year  
12                in which such contribution was made  
13                a copy of such appraisal,

14           “(iii) the donee is an organization de-  
15           scribed in subsection (b)(1)(A),

16           “(iv) the use of such property by the  
17           donee is related to the purpose or function  
18           constituting the basis for the donee’s ex-  
19           emption under section 501 (or, in the case  
20           of a governmental unit, to any purpose or  
21           function described under subsection (c)),

22           “(v) the taxpayer receives from the  
23           donee a written statement representing  
24           that the donee’s use of the property will be

1 in accordance with the provisions of clause  
2 (iv), and

3 “(vi) the written appraisal referred to  
4 in clause (ii) includes evidence of the ex-  
5 tent (if any) to which property created by  
6 the personal efforts of the taxpayer and of  
7 the same type as the donated property is  
8 or has been—

9 “(I) owned, maintained, and dis-  
10 played by organizations described in  
11 subsection (b)(1)(A), and

12 “(II) sold to or exchanged by  
13 persons other than the taxpayer,  
14 donee, or any related person (as de-  
15 fined in section 465(b)(3)(C)).

16 “(C) MAXIMUM DOLLAR LIMITATION; NO  
17 CARRYOVER OF INCREASED DEDUCTION.—The  
18 increase in the deduction under this section by  
19 reason of this paragraph for any taxable year—

20 “(i) shall not exceed the artistic ad-  
21 justed gross income of the taxpayer for  
22 such taxable year, and

23 “(ii) shall not be taken into account in  
24 determining the amount which may be car-

1           ried from such taxable year under sub-  
2           section (d).

3           “(D) ARTISTIC ADJUSTED GROSS IN-  
4           COME.—For purposes of this paragraph, the  
5           term ‘artistic adjusted gross income’ means  
6           that portion of the adjusted gross income of the  
7           taxpayer for the taxable year attributable to—

8                   “(i) income from the sale or use of  
9                   property created by the personal efforts of  
10                  the taxpayer which is of the same type as  
11                  the donated property, and

12                  “(ii) income from teaching, lecturing,  
13                  performing, or similar activity with respect  
14                  to property described in clause (i).

15           “(E) PARAGRAPH NOT TO APPLY TO CER-  
16           TAIN CONTRIBUTIONS.—Subparagraph (A) shall  
17           not apply to any charitable contribution of any  
18           letter, memorandum, or similar property which  
19           was written, prepared, or produced by or for an  
20           individual while the individual is an officer or  
21           employee of any person (including any govern-  
22           ment agency or instrumentality) unless such  
23           letter, memorandum, or similar property is en-  
24           tirely personal.

1           “(F) COPYRIGHT TREATED AS SEPARATE  
2           PROPERTY FOR PARTIAL INTEREST RULE.—In  
3           the case of a qualified artistic charitable con-  
4           tribution, the tangible literary, musical, artistic,  
5           or scholarly composition, or similar property  
6           and the copyright on such work shall be treated  
7           as separate properties for purposes of this para-  
8           graph and subsection (f)(3).”.

9           (b) EFFECTIVE DATE.—The amendment made by  
10          this section shall apply to contributions made after the  
11          date of the enactment of this Act in taxable years ending  
12          after such date.

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