

108TH CONGRESS
2D SESSION

S. 2103

To amend the Internal Revenue Code of 1986 to limit the deduction for charitable contributions of patents and similar property.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 24, 2004

Mr. ROBERTS (for himself and Mr. BROWNBANK) introduced the following bill;
which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to limit the deduction for charitable contributions of patents and similar property.

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. LIMITATION OF DEDUCTION FOR CHARITABLE
4 CONTRIBUTIONS OF PATENTS AND SIMILAR
5 PROPERTY.

6 (a) IN GENERAL.—Subparagraph (B) of section
7 170(e)(1) of the Internal Revenue Code of 1986 (relating
8 to certain contributions of capital gain property) is amend-
9 ed by striking “or” at the end of clause (i), by inserting

- 1 “or” at the end of clause (ii), and by inserting after clause
- 2 (ii) the following new clause:

7 (b) SPECIAL RULE.—Section 170(e) of such Code is
8 amended by adding at the end the following new para-
9 graph:

10 “(7) SPECIAL RULE FOR CERTAIN CONTRIBUTIONS
11 OF PATENTS, COPYRIGHTS, ETC.—

12 “(A) EXCEPTION FOR CONTRIBUTIONS TO
13 QUALIFIED RESEARCH ORGANIZATIONS.—Sub-
14 paragraph (B) of paragraph (1) shall not apply
15 to any qualified contribution to a qualified re-
16 search organization.

1 “(C) QUALIFIED CONTRIBUTION DE-
2 FINED.—For purposes of this paragraph, a con-
3 tribution of property described in paragraph
4 (1)(B)(iii) shall be treated as a qualified con-
5 tribution only if—

1 (c) QUALIFIED APPRAISAL REQUIRED.—

2 (1) IN GENERAL.—The Secretary of the Treasury shall prescribe regulations or other guidance under section 170(a)(1) of the Internal Revenue Code of 1986 requiring the donor of property described in section 170(e)(1)(B)(iii) of such Code to obtain one or more qualified appraisals of the fair market value of such property by a qualified appraiser or appraisers.

10 (2) QUALIFIED APPRAISER.—For purposes of paragraph (1), the term “qualified appraiser” means an appraiser who has valuation credentials and experience in appraising such property, who is not an employee of the donor or donee, and who satisfies any professional valuation education and qualification requirements that are prescribed by the Secretary.

18 (3) QUALIFIED APPRAISAL.—For purposes of paragraph (1), the term “qualified appraisal” means an appraisal that satisfies the requirements (without regard to any value limitation) for a qualified appraisal under section 170(a)(1) of such Code (as in effect on the date of the enactment of this Act), with the following modifications:

1 (A) The valuation methodologies to be
2 used shall be those prescribed by the Secretary.

3 (B) The appraisal shall take into account
4 the competitive patent environment and remain-
5 ing life of a donated patent.

6 (C) The valuation of property described in
7 section 170(e)(7) of such Code shall take into
8 account the potential use of such property by
9 any qualified donee, including the value to be
10 generated through further technology develop-
11 ment and commercialization by the donee and
12 potential licensees of the property.

18 (E) The donee shall acknowledge receipt of
19 the appraisal summary required to be filed by
20 the donor.

21 (F) The amount of any cash or cash equiv-
22 alent grant described in section 170(e)(7)(C)(ii)
23 of such Code and a complete description of the
24 terms of any such grant shall be fully described
25 in the information returns of the donee organi-

1 zation for the taxable year of receipt and subse-
2 quent taxable years, as required by the Sec-
3 retary.

4 (d) ANTI-ABUSE RULES.—The Secretary may pre-
5 scribe such regulations or other guidance as may be nec-
6 essary or appropriate to prevent the avoidance of the pur-
7 poses of paragraphs (1)(B)(iii) and (7) of section 170(e)
8 of such Code (as added by this section), including pre-
9 venting—

10 (1) the circumvention of the reduction of the
11 deduction under such section by embedding or bun-
12 dling the patent or similar property as part of a
13 charitable contribution of property that includes the
14 patent or similar property,

15 (2) the manipulation of the basis of the prop-
16 erty to increase the amount of the charitable deduc-
17 tion through the use of related persons, pass-thru
18 entities, or other intermediaries, or through the use
19 of any provision of law or regulation (including the
20 consolidated return regulations), and

21 (3) a donor from changing the form of the pat-
22 ent or similar property to property of a form for
23 which different deduction rules would apply.

24 (e) EFFECTIVE DATE.—

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