

SENATE BILL NO. 150

INTRODUCED BY K. GILLAN

BY REQUEST OF THE DEPARTMENT OF REVENUE

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THAT A FUND OF A TAX-EXEMPT ORGANIZATION FROM WHICH CONTRIBUTIONS ARE EXPENDED DIRECTLY FOR CONSTRUCTING, RENOVATING, OR PURCHASING OPERATIONAL ASSETS IS NOT A PERMANENT, IRREVOCABLE FUND FOR THE PURPOSES OF DETERMINING THE TAX CREDIT FOR CONTRIBUTIONS TO A QUALIFIED ENDOWMENT; EXTENDING THE TERMINATION DATE OF THE TAX CREDIT; AMENDING SECTION 15-30-165, MCA, SECTION 9, CHAPTER 537, LAWS OF 1997, SECTION 5, CHAPTER 226, LAWS OF 2001, AND SECTION 7, CHAPTER 4, LAWS OF 2005; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE, AN APPLICABILITY DATE, AND A TERMINATION DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 15-30-165, MCA, is amended to read:

"15-30-165. (Temporary) Qualified endowments credit -- definitions -- rules. (1) For the purposes of 15-30-166 and this section, the following definitions apply:

~~(1)~~(a) (i) "Permanent, irrevocable fund" means a fund comprising cash, securities, mutual funds, or other investment assets established for a specific charitable, religious, educational, or eleemosynary purpose and invested for the production or growth of income, or both, that may either be added to principal or expended.

(ii) The term does not include a fund held by or for a tax-exempt organization to accomplish a charitable, religious, educational, or eleemosynary purpose from which contributions are expended directly for constructing, renovating, or purchasing operational ~~asset~~ ASSETS, such as buildings or equipment.

(b) Subject to subsection ~~(3)~~ (2), "planned gift" means an irrevocable contribution to a permanent endowment held by or for a tax-exempt organization, ~~or for a tax-exempt organization~~, when the contribution uses any of the following techniques that are authorized under the Internal Revenue Code:

~~(a)~~(i) charitable remainder unitrusts, as defined by 26 U.S.C. 664;

~~(b)~~(ii) charitable remainder annuity trusts, as defined by 26 U.S.C. 664;

~~(c)~~(iii) pooled income fund trusts, as defined by 26 U.S.C. 642(c)(5);

- 1 ~~(d)~~(iv) charitable lead unitrusts qualifying under 26 U.S.C. 170(f)(2)(B);
- 2 ~~(e)~~(v) charitable lead annuity trusts qualifying under 26 U.S.C. 170(f)(2)(B);
- 3 ~~(f)~~(vi) charitable gift annuities undertaken pursuant to 26 U.S.C. 1011(b);
- 4 ~~(g)~~(vii) deferred charitable gift annuities undertaken pursuant to 26 U.S.C. 1011(b);
- 5 ~~(h)~~(viii) charitable life estate agreements qualifying under 26 U.S.C. 170(f)(3)(B);
- 6 ~~(i)~~(ix) paid-up life insurance policies meeting the requirements of 26 U.S.C. 170.
- 7 ~~(2)~~(c) "Qualified endowment" means a permanent, irrevocable fund that is held by a Montana
- 8 incorporated or established organization that:
- 9 ~~(a)~~(i) is a tax-exempt organization under 26 U.S.C. 501(c)(3); or
- 10 ~~(b)~~(ii) is a bank or trust company, as defined in Title 32, chapter 1, part 1, that is holding the fund on
- 11 behalf of a tax-exempt organization.
- 12 ~~(3)~~(2) (a) A contribution using a technique described in subsection ~~(1)(a)~~ (1)(b)(i) or ~~(1)(b)~~ (1)(b)(ii) is not
- 13 a planned gift unless the trust agreement provides that the trust may not terminate and the beneficiaries' interest
- 14 in the trust may not be assigned or contributed to the qualified endowment sooner than the earlier of:
- 15 (i) the date of death of the beneficiaries; or
- 16 (ii) 5 years from the date of the contribution.
- 17 (b) A contribution using the technique described in subsection ~~(1)(g)~~ (1)(b)(vii) is not a planned gift unless
- 18 the payment of the annuity is required to begin within the life expectancy of the annuitant or of the joint life
- 19 expectancies of the annuitants, if more than one annuitant, as determined using the actuarial tables adopted by
- 20 rule by the department in effect on the date of the contribution.
- 21 (c) A contribution using a technique described in subsection ~~(1)(f)~~ (1)(b)(vi) or ~~(1)(g)~~ (1)(b)(vii) is not a
- 22 planned gift unless the annuity agreement provides that the interest of the annuitant or annuitants in the gift
- 23 annuity may not be assigned to the qualified endowment sooner than the earlier of:
- 24 (i) the date of death of the annuitant or annuitants; or
- 25 (ii) 5 years after the date of the contribution.
- 26 (d) A contribution using a technique described in subsection ~~(1)(f)~~ (1)(b)(vi) or ~~(1)(g)~~ (1)(b)(vii) is not a
- 27 planned gift unless the annuity is a qualified charitable gift annuity as defined in 33-20-701.
- 28 ~~(4)~~(3) The department shall adopt rules to prepare life expectancy tables that are derived from the
- 29 actuarial tables contained in the most recent Publication 1457 by the internal revenue service. (Terminates
- 30 December 31, 2007 ~~2013--sec. 5, Ch. 226, L. 2004.~~)"

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Section 2. Section 9, Chapter 537, Laws of 1997, is amended to read:

"Section 9. Termination. [This act] terminates December 31, ~~2004~~ 2013."

Section 3. Section 5, Chapter 226, Laws of 2001, is amended to read:

"Section 5. Section 9, Chapter 537, Laws of 1997, is amended to read:

"Section 9. Termination. [This act] terminates December 31, ~~2004~~ 2007 2013."

Section 4. Section 7, Chapter 4, Laws of 2005, is amended to read:

"Section 7. Termination. [This act] terminates December 31, ~~2007~~ 2013."

NEW SECTION. **Section 5. Effective date.** [This act] is effective on passage and approval.

NEW SECTION. **Section 6. Applicability.** [This act] applies to charitable contributions made on or after [the effective date of this act].

NEW SECTION. **Section 7. Termination.** (1) [Section 1] terminates December 31, 2013.

(2) Sections 1 through 4, Chapter 226, Laws of 2001, terminate December 31, 2013.

(3) Section 7, Chapter 482, Laws of 2003, terminates December 31, 2013.

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