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## [H.R. 1104, the Fair Treatment for All Gifts Act](#)

### FLOOR SITUATION

On Wednesday, April 15, 2015, the House will consider [H.R. 1104](#), *the Fair Treatment for All Gifts Act*, under suspension of the rules. The bill was introduced on February 26, 2015 by Rep. Peter Roskam (R-IL) and was referred to the Committee on Ways and Means, which ordered the bill reported, as amended, by voice vote on March 25, 2015.

### SUMMARY

H.R. 1104 amends Section 2522(a) of the Internal Revenue Code of 1986 to explicitly provide that contributions to certain tax-exempt organizations would be deductible in computing taxable gifts for purposes of estate and gift taxation. The tax-exempt organizations include social welfare and other organizations described in the Internal Revenue Code under Section 501(c)(4), labor and other organizations described under Section 501(c)(5), and trade associations and similar organizations described under Section 501(c)(6). The bill would codify the existing practices of the Internal Revenue Service (IRS) in administering the tax law applicable to such donations to permanently ensure that such donations are not subject to the gift tax. The bill's exclusions would apply to gifts made after the date of its enactment.

### BACKGROUND

The tax code imposes a tax for each calendar year on the transfer of property by gift during such year by any individual. The amount of taxable gifts for a calendar year is determined by subtracting from the total amount of gifts made during the year: (1) the gift tax annual exclusion; and (2) allowable deductions. The gift tax applies to a transfer by gift regardless of whether: (1) the transfer is made outright or in trust; (2) the gift is direct or indirect; (3) the property is real or personal, tangible or intangible. For gift tax purposes, the value of a gift of property is the fair market value of the property at the time of the gift.<sup>1</sup> Although donations to non-profit organizations generally have not been subject to this tax, under current law, there is no explicit exception from the gift tax for a transfer to a tax-exempt organization described in Section 501(c)(4), 501(c)(5), or 501(c)(6) of the Internal Revenue Code. H.R. 1104 codifies the long-standing practice of exempting contributions to these organizations from the gift tax, which will encourage such contributions and ensure that those who

<sup>1</sup> Joint Committee on Taxation, [Description of H.R. 1104, the Fair Treatment for All Donations Act](#) (JCX-65-15), March 24, 2015 at 2 and 3.

contribute to these organizations are treated similarly for tax purposes as those who make tax-exempt contributions to other non-profit organizations that are explicitly excluded by statute.

### **COST**

[The Joint Committee on Taxation \(JCT\)](#) estimates that enacting H.R. 1104 would have no budgetary effect. Because enacting H.R. 1104 would not affect direct spending or revenues, pay-as-you-go procedures do not apply.

### **STAFF CONTACT**

For questions or further information, contact the House Republican Policy Committee at 6-5539.