114TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
1st Session } { 114–

PRIVATE FOUNDATION EXCISE TAX SIMPLIFICATION ACT OF 2015

FEBRUARY --, 2015.—Ordered to be printed

Mr. RYAN of Wisconsin, from the Committee on Ways and Means, submitted the following

R E P O R T

together with

Dissenting VIEWS

[To accompany H.R. 640]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 640) to amend the Internal Revenue Code of 1986 to modify the tax rate for excise tax on investment income of private foundations, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SEC. 1. SHORT TITLE.

This Act may be cited as the "Private Foundation Excise Tax Simplification Act of 2015".

SECTION 2. MODIFICATION OF THE TAX RATE FOR THE EXCISE TAX ON INVESTMENT INCOME OF PRIVATE FOUNDATIONS.

(a) IN GENERAL.—Section 4940(a) of the Internal Revenue Code of 1986 is amended by striking "2 percent" and inserting "1 percent".

(b) ELIMINATION OF REDUCED TAX WHERE FOUNDATION MEETS CERTAIN DISTRIBUTION REQUIREMENTS.—Section 4940 of such Code is amended by striking subsection (e).

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

SEC. 3. BUDGETARY EFFECTS.

The budgetary effects of this Act shall not be entered on either PAYGO scorecard maintained pursuant to section 4(d) of the Statutory Pay-As-You-Go Act of 2010.

CONTENTS

I. SUMMARY AND BACKGROUND

A. Purpose and Summary

H.R. 640, reported by the Committee on Ways and Means, provides that the excise tax rate on the net investment income of private foundations is reduced to 1 percent. The bill repeals the alternative rules that reduce the current-law excise tax rate from 2 percent to 1 percent for a private foundation with qualifying distributions that exceed the average historical level of its charitable distributions.

B. Background and Need for Legislation

While the Committee continues actively to pursue comprehensive tax reform as a critical means of promoting economic growth and job creation, the Committee also believes that it is important to provide permanent, immediate tax relief to encourage faster economic growth and job creation, while fostering charitable giving. By simplifying and reducing the private foundation excise tax on net investment income, H.R. 640 eliminates a source of confusion and frustration, especially for smaller foundations, which can have endowments that vary in size significantly from year to year. Private foundations, both large and small, recommended to the Committee's 2013 Tax Reform Working Group on Charitable/Exempt Organizations that the net investment tax be reduced to a flat 1 percent to ease compliance. By adopting this recommendation to ease the administrative burden on all private foundations, H.R. 640 will encourage private foundations to provide more funding of charitable activities to benefit local communities and the environment across the nation.

C. Legislative History

Background

H.R. 640 was introduced on February 2, 2015, and was referred to the Committee on Ways and Means.

Committee action

The Committee on Ways and Means marked up H.R. 640, the Private Foundation Excise Tax Simplification Act of 2015, on February 4, 2015, and ordered the bill, as amended, favorably reported (with a quorum being present).

Committee hearings

The need for permanent rules simplifying the excise tax on investment income of private foundations was discussed at a full Committee hearing on Tax Reform and Charitable Contributions (February 14, 2013).

II. EXPLANATION OF THE BILL

A. Modification of the Tax Rate for the Excise Tax on Investment Income of Private Foundations (sec. 4940 of the Code)

Present Law

Under section 4940(a), a private foundation (other than an exempt operating foundation) that is exempt from tax under section 501(a) for a taxable year is subject to a two-percent excise tax on its net investment income. Net investment income generally includes interest, dividends, rents, royalties (and income from similar sources), and capital gain net income, and is reduced by expenses incurred to earn this income. The two-percent rate of tax is reduced to one-percent in any year in which a foundation exceeds the average historical level of its charitable distributions. Specifically, the excise tax rate is reduced if the foundation's qualifying distributions (generally, amounts paid to accomplish exempt purposes)[1] equal or exceed the sum of (1) the amount of the foundation's assets for the taxable year multiplied by the average percentage of the foundation's qualifying distributions over the five taxable years immediately preceding the taxable year in question, and (2) one percent of the net investment income of the foundation for the taxable year.[2] In addition, the foundation cannot have been subject to tax in any of the five preceding years for failure to meet minimum qualifying distribution requirements in section 4942.

Private foundations that are not exempt from tax under section 501(a), such as certain charitable trusts, are subject to an excise tax under section 4940(b). The tax is equal to the excess of the sum of the excise tax that would have been imposed under section 4940(a) if the foundation were tax exempt and the amount of the tax on unrelated business income that would have been imposed if the foundation were tax exempt, over the income tax imposed on the foundation under subtitle A of the Code.

Private foundations are required to make a minimum amount of qualifying distributions each year to avoid tax under section 4942. The minimum amount of qualifying distributions a foundation has to make to avoid tax under section 4942 is reduced by the amount of section 4940 excise taxes paid.[3]

Reasons for Change

Under the present-law, two-tier private foundation excise tax rate structure, a foundation must carefully manage the timing and amount of its grant making to minimize its excise tax burden. Compliance can be costly and consume resources that otherwise would have been used for grant making or other charitable activity.

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[1] Sec. 4942(g).

[2] Sec. 4940(e).

[3] Sec. 4942(d)(2).

In addition, to qualify for the lower, one-percent tax rate in a year, a foundation must ensure that its distributions for the year exceed a historical, average level of distributions. This structure creates an incentive for foundations to limit distributions in any one year, because a significant increase in distributions will raise the foundation's average level of distributions, making it more difficult to qualify for the reduced rate in future years. As a result, a foundation that might have been inclined to distribute an unusually large amount in a time of public need, such as during the response to a natural disaster, has a disincentive to do so.

For these reasons, the Committee believes it is appropriate to replace the present-law, two-tier private foundation excise tax rate structure with a simplified structure that uses a single tax rate of one percent.

Explanation of Provision

The provision replaces the two rates of excise tax on tax-exempt private foundations with a single rate of tax of one percent. Thus, under the provision, a tax-exempt private foundation generally is subject to an excise tax of one percent on its net investment income. A taxable private foundation is subject to an excise tax equal to the excess (if any) of the sum of the one-percent net investment income excise tax and the amount of the tax on unrelated business income (both calculated as if the foundation were tax-exempt), over the income tax imposed on the foundation. The provision repeals the special reduced excise tax rate for private foundations that exceed their historical level of qualifying distributions.

The proposal exempts any budgetary effects from the PAYGO scorecards under the Statutory Pay-As-You-Go Act of 2010.

Effective Date

The provision is effective for taxable years beginning after the date of enactment.

III. VOTES OF THE COMMITTEE

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the vote of the Committee on Ways and Means in its consideration of H.R. 640, the Private Foundation Excise Tax Simplification Act of 2015, on February 4, 2015.

The bill, H.R. 640, was ordered favorably reported as amended by a roll call vote of 24 yeas to 14 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Ryan	✓			Mr. Levin		✓	
Mr. Johnson	✓			Mr. Rangel		✓	
Mr. Brady	✓			Mr. McDermott		✓	
Mr. Nunes	✓			Mr. Lewis		✓	
Mr. Tiberi	✓			Mr. Neal		✓	
Mr. Reichert	✓			Mr. Becerra		✓	
Mr. Boustany	✓			Mr. Doggett		✓	
Mr. Roskam	✓			Mr. Thompson		✓	
Mr. Price	✓			Mr. Larson		✓	
Mr. Buchanan	✓			Mr. Blumenauer			
Mr. Smith (NE)	✓			Mr. Kind		✓	
Mr. Schock	✓			Mr. Pascrell		✓	
Ms. Jenkins	✓			Mr. Crowley		✓	
Mr. Paulsen	✓			Mr. Davis		✓	
Mr. Marchant	✓			Ms. Sanchez		✓	
Ms. Black	✓						
Mr. Reed	✓						
Mr. Young	✓						
Mr. Kelly	✓						
Mr. Renacci	✓						
Mr. Meehan	✓						
Ms. Noem	✓						
Mr. Holding	✓						
Mr. Smith (MO)	✓						

IV. BUDGET EFFECTS OF THE BILL

A. Committee Estimate of Budgetary Effects

In compliance with clause 3(d) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the effects on the budget of the bill, H.R. 640, as reported.

The bill, as reported, is estimated to have the following effect on Federal budget receipts for fiscal years 2015-2025:

Fiscal Years [Millions of Dollars]												
2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2015-20	2015-25
[1]	-129	-172	-180	-187	-195	-203	-212	-221	-230	-240	-863	-1,969

NOTE: Details do not add to totals due to rounding.
[1] Loss of less than $500,000.

Pursuant to clause 8 of rule XIII of the Rules of the House of Representatives, the following statement is made by the Joint Committee on Taxation with respect to the provisions of the bill amending the Internal Revenue Code of 1986: the gross budgetary effect (before incorporating macroeconomic effects) in any fiscal year is less than 0.25 percent of the current projected gross domestic product of the United States for that fiscal year; therefore, the bill is not "major legislation" for purposes of requiring that the estimate include the budgetary effects of changes in economic output, employment, capital stock and other macroeconomic variables.

B. Statement Regarding New Budget Authority and Tax Expenditures Budget Authority

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee states that the bill involves no new or increased budget authority. The Committee further states that the revenue-reducing tax provision does not provide an increase or decrease in tax expenditures.

C. Cost Estimate Prepared by the Congressional Budget Office

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, requiring a cost estimate prepared by the CBO, the following statement by CBO is provided.

[Insert A - CBO letter/estimate]

V. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

A. Committee Oversight Findings and Recommendations

With respect to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives (relating to oversight findings), the Committee advises that it was as a result of the Committee's review of the provisions of H.R. 640 that the Committee concluded that it is appropriate to report the bill, as amended, favorably to the House of Representatives with the recommendation that the bill do pass.

B. Statement of General Performance Goals and Objectives

With respect to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee advises that the bill contains no measure that authorizes funding, so no statement of general performance goals and objectives for which any measure authorizes funding is required.

C. Information Relating to Unfunded Mandates

This information is provided in accordance with section 423 of the Unfunded Mandates Reform Act of 1995 (Pub. L. No. 104-4).

The Committee has determined that the bill does not contain Federal mandates on the private sector. The Committee has determined that the bill does not impose a Federal intergovernmental mandate on State, local, or tribal governments.

D. Applicability of House Rule XXI 5(b)

Rule XXI 5(b) of the Rules of the House of Representatives provides, in part, that "A bill or joint resolution, amendment, or conference report carrying a Federal income tax rate increase may not be considered as passed or agreed to unless so determined by a vote of not less than three-fifths of the Members voting, a quorum being present." The Committee has carefully reviewed the bill, and states that the bill does not involve any Federal income tax rate increases within the meaning of the rule.

E. Tax Complexity Analysis

Section 4022(b) of the Internal Revenue Service Restructuring and Reform Act of 1998 (the "IRS Reform Act") requires the staff of the Joint Committee on Taxation (in consultation with the Internal Revenue Service and the Treasury Department) to provide a tax complexity analysis. The complexity analysis is required for all legislation reported by the Senate Committee on Finance, the House Committee on Ways and Means, or any committee of conference if the legislation includes a provision that directly or indirectly amends the Internal Revenue Code and has widespread applicability to individuals or small businesses.

Pursuant to clause 3(h)(1) of rule XIII of the Rules of the House of Representatives, the staff of the Joint Committee on Taxation has determined that a complexity analysis is not

required under section 4022(b) of the IRS Reform Act because the bill contains no provisions that amend the Code and that have "widespread applicability" to individuals or small businesses, within the meaning of the rule.

F. Congressional Earmarks, Limited Tax Benefits, and Limited Tariff Benefits

With respect to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee has carefully reviewed the provisions of the bill, and states that the provisions of the bill do not contain any congressional earmarks, limited tax benefits, or limited tariff benefits within the meaning of the rule.

G. Duplication of Federal Programs

In compliance with Sec. 3(g)(2) of H. Res. 5 (114th Congress), the Committee states that no provision of the bill establishes or reauthorizes: (1) a program of the Federal Government known to be duplicative of another Federal program, (2) a program included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139, or (3) a program related to a program identified in the most recent Catalog of Federal Domestic Assistance, published pursuant to the Federal Program Information Act (Public Law 95-220, as amended by Public Law 98-169).

H. Disclosure of Directed Rule Makings

In compliance with Sec. 3(i) of H. Res. 5 (114th Congress), the following statement is made concerning directed rule makings: The Committee estimates that the bill requires no directed rule makings within the meaning of such section.

VI. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

[Insert B--Office of Legislative Counsel's "Ramseyer" language]

VII. DISSENTING VIEWS

[Insert C—Dissenting Views]

CONGRESSIONAL BUDGET OFFICE
U.S. Congress
Washington, DC 20515

Douglas W. Elmendorf, Director

February 5, 2015

Honorable Paul Ryan
Chairman
Committee on Ways and Means
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 640, the Private Foundation Excise Tax Simplification Act of 2015.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Nate Frentz, who can be reached at 226-2680.

Sincerely,

Douglas W. Elmendorf

Enclosure

cc: Honorable Sander M. Levin
Ranking Member

CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

February 5, 2015

H.R. 640
Private Foundation Excise Tax Simplification Act of 2015

As ordered reported by the House Committee on Ways and Means on February 4, 2015

H.R. 640 would amend the Internal Revenue Code to restructure the excise tax on net investment income of private foundations from a dual-rate system (tax rates of 1 percent and 2 percent) to a single-rate system with a rate of 1 percent. Under current law, the calculation of the amount of excise tax differs depending on whether the foundation is exempt from income taxes or not, but in both cases a foundation faces a general excise tax rate of 2 percent on its net investment income. The rate of tax is reduced to 1 percent when a foundation has made charitable distributions in a year that exceed an amount based largely on its historical rate of distributions relative to its assets.

The staff of the Joint Committee on Taxation (JCT) estimates that enacting H.R. 640 would reduce revenues, thus increasing federal budget deficits, by about $2.0 billion over the 2015-2025 period. The estimated budgetary effects of H.R. 640 are shown in the following table.

	By Fiscal Year, in Millions of Dollars												
	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2015-2020	2015-2025
CHANGES IN REVENUES													
Estimated Revenues	*	-129	-172	-180	-187	-195	-203	-212	-221	-230	-240	-863	-1,969

Source: Staff of the Joint Committee on Taxation.

Note: * = less than $500,000.

Although enacting H.R. 640 would affect revenues, the provisions of the Statutory Pay-As-You-Go Act of 2010 do not apply to the legislation because it includes a provision that would direct the Office of Management and Budget to exclude the estimated changes in revenues from the scorecards used to enforce the pay-as-you-go rules.

JCT has determined that the bill contains no intergovernmental or private-sector mandates

as defined in the Unfunded Mandates Reform Act.

The CBO staff contact for this estimate is Nathaniel Frentz. The estimate was approved by David Weiner, Assistant Director for Tax Analysis.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

INTERNAL REVENUE CODE OF 1986

* * * * * * *

Subtitle D—Miscellaneous Excise Taxes

* * * * * * *

CHAPTER 42—PRIVATE FOUNDATIONS; AND CERTAIN OTHER TAX-EXEMPT ORGANIZATIONS

Subchapter A—Private Foundations

SEC. 4940. EXCISE TAX BASED ON INVESTMENT INCOME.

(a) TAX-EXEMPT FOUNDATIONS.—There is hereby imposed on each private foundation which is exempt from taxation under section 501(a) for the taxable year, with respect to the carrying on its activities, a tax equal to [2 percent] *1 percent* of the net investment income of such foundation for the taxable year.

(b) TAXABLE FOUNDATIONS.—There is hereby imposed on each private foundation which is not exempt from taxation under section 501(a) for the taxable year, with respect to the carrying on of its activities, a tax equal to—

(1) the amount (if any) by which the sum of (A) the tax imposed under subsection (a) (computed as if such subsection applied to such private foundation for the taxable year), plus (B) the amount of the tax which would have been imposed under section 511 for the taxable year if such private foundation had been exempt from taxation under section 501(a), exceeds

(2) the tax imposed under subtitle A on such private foundation for the taxable year.

(c) NET INVESTMENT INCOME DEFINED.—

(1) IN GENERAL.—For purposes of subsection (a), the net investment income is the amount by which (A) the sum of the gross investment income and the capital gain net income exceeds (B) the deductions allowed by paragraph (3). Except to the extent inconsistent with the provisions of this section, net investment income shall be determined under the principles of subtitle A.

(2) GROSS INVESTMENT INCOME.—For purposes of paragraph (1), the term "gross investment income" means the gross amount of income from interest, dividends, rents, payments with respect to securities loans (as defined in section 512(a)(5)), and royalties, but not including any such income to the extent included in computing the tax imposed by section 511. Such term shall also include income from sources similar to those in the preceding sentence.

(3) DEDUCTIONS.—

(A) IN GENERAL.—For purposes of paragraph (1), there shall be allowed as a deduction all the ordinary and necessary expenses paid or incurred for the production or collection of gross investment income or for the management, conservation, or maintenance of property held for the production of such income, determined with the modifications set forth in subparagraph (B).

(B) MODIFICATIONS.—For purposes of subparagraph (A)—

(i) The deduction provided by section 167 shall be allowed, but only on the basis of the straight line method of depreciation.

(ii) The deduction for depletion provided by section 611 shall be allowed, but such deduction shall be determined without regard to section 613 (relating to percentage depletion).

(4) CAPITAL GAINS AND LOSSES.—For purposes of paragraph (1) in determining capital gain net income—

(A) There shall not be taken into account any gain or loss from the sale or other disposition of property to the extent that such gain or loss is taken into account for purposes of computing the tax imposed by section 511.

(B) The basis for determining gain in the case of property held by the private foundation on December 31, 1969, and continuously thereafter to the date of its disposition shall be deemed to be not less than the fair market value of such property on December 31, 1969.

(C) Losses from sales or other dispositions of property shall be allowed only to the extent of gains from such sales or other dispositions, and there shall be no capital loss carryovers or carrybacks.

(D) Except to the extent provided by regulation, under rules similar to the rules of section 1031 (including the exception under subsection (a)(2) thereof), no gain or loss shall be taken into account with respect to any portion of property used for a period of not less than 1 year for a purpose or function constituting the basis of the private foundation's exemption if the entire property is exchanged immediately following such period solely for property of like kind which is to be used primarily for a purpose or function constituting the basis for such foundation's exemption.

(5) TAX-EXEMPT INCOME.—For purposes of this section, net investment income shall be determined by applying section 103

(relating to State and local bonds) and section 265 (relating to expenses and interest relating to tax-exempt income).

(d) EXEMPTION FOR CERTAIN OPERATING FOUNDATIONS.—

(1) IN GENERAL.—No tax shall be imposed by this section on any private foundation which is an exempt operating foundation for the taxable year.

(2) EXEMPT OPERATING FOUNDATION.—For purposes of this subsection, the term "exempt operating foundation" means, with respect to any taxable year, any private foundation if—

(A) such foundation is an operating foundation (as defined in section 4942(j)(3)),

(B) such foundation has been publicly supported for at least 10 taxable years,

(C) at all times during the taxable year, the governing body of such foundation—

(i) consists of individuals at least 75 percent of whom are not disqualified individuals, and

(ii) is broadly representative of the general public, and (D) at no time during the taxable year does such foundation have an officer who is a disqualified individual.

(3) DEFINITIONS.—For purposes of this subsection—

(A) PUBLICLY SUPPORTED.—A private foundation is publicly supported for a taxable year if it meets the requirements of section 170(b)(1)(A)(vi) or 509(a)(2) for such taxable year.

(B) DISQUALIFIED INDIVIDUAL.—The term "disqualified individual" means, with respect to any private foundation, an individual who is—

(i) a substantial contributor to the foundation,

(ii) an owner of more than 20 percent of—

(I) the total combined voting power of a corporation,

(II) the profits interest of a partnership, or

(III) the beneficial interest of a trust or unincorporated enterprise,

which is a substantial contributor to the foundation, or

(iii) a member of the family of any individual described in clause (i) or (ii).

(C) SUBSTANTIAL CONTRIBUTOR.—The term "substantial contributor" means a person who is described in section 507(d)(2).

(D) FAMILY.—The term "family" has the meaning given to such term by section 4946(d).

(E) CONSTRUCTIVE OWNERSHIP.—The rules of paragraphs (3) and (4) of section 4946(a) shall apply for purposes of subparagraph (B)(ii).

[(e) REDUCTION IN TAX WHERE PRIVATE FOUNDATION MEETS CERTAIN DISTRIBUTION REQUIREMENTS.—

[(1) IN GENERAL.—In the case of any private foundation which meets the requirements of paragraph (2) for any taxable year, subsection (a) shall be applied with respect to such taxable year by substituting "1 percent" for "2 percent".

[(2) REQUIREMENTS.—A private foundation meets the requirements of this paragraph for any taxable year if—

[(A) the amount of the qualifying distributions made by the private foundation during such taxable year equals or exceeds the sum of—

[(i) an amount equal to the assets of such foundation for such taxable year multiplied by the average percentage payout for the base period, plus

[(ii) 1 percent of the net investment income of such foundation for such taxable year, and

[(B) such private foundation was not liable for tax under section 4942 with respect to any year in the base period.

[(3) AVERAGE PERCENTAGE PAYOUT FOR BASE PERIOD.—For purposes of this subsection—

[(A) IN GENERAL.—The average percentage payout for the base period is the average of the percentage payouts for taxable years in the base period.

[(B) PERCENTAGE PAYOUT.—The term "percentage payout" means, with respect to any taxable year, the percentage determined by dividing—

[(i) the amount of the qualifying distributions made by the private foundation during the taxable year, by

[(ii) the assets of the private foundation for the taxable year.

[(C) SPECIAL RULE WHERE TAX REDUCED UNDER THIS SUBSECTION.—For purposes of this paragraph, if the amount of the tax imposed by this section for any taxable year in the base period is reduced by reason of this subsection, the amount of the qualifying distributions made by the private foundation during such year shall be reduced by the amount of such reduction in tax.

[(4) BASE PERIOD.—For purposes of this subsection—

[(A) IN GENERAL.—The term "base period" means, with respect to any taxable year, the 5 taxable years preceding such taxable year.

[(B) NEW PRIVATE FOUNDATIONS, ETC..—If an organization has not been a private foundation throughout the base period referred to in subparagraph (A), the base period shall consist of the taxable years during which such foundation has been in existence.

[(5) OTHER DEFINITIONS.—For purposes of this subsection—

[(A) QUALIFYING DISTRIBUTION.—The term "qualifying distribution" has the meaning given such term by section 4942(g).

[(B) ASSETS.—The assets of a private foundation for any taxable year shall be treated as equal to the excess determined under section 4942(e)(1).

[(6) TREATMENT OF SUCCESSOR ORGANIZATIONS, ETC..—In the case of—

[(A) a private foundation which is a successor to another private foundation, this subsection shall be applied with respect to such successor by taking into account the experience of such other foundation, and

[(B) a merger, reorganization, or division of a private foundation, this subsection shall be applied under regulations prescribed by the Secretary.]

* * * * * * *

February 6, 2015

Dissenting Views
H.R. 640

The seven bills approved by the Republicans at the markup would add more than $93 billion to the deficit – and if history is our guide, this is merely the start of the approach the Republicans embraced last Congress. In the 113th Congress, Ways and Means Committee Republicans approved $825 billion worth of deficit-financed, permanent tax cuts. The bills marked up by the Committee set us down a partisan path, when we should be embracing bipartisanship and working in a responsible, bipartisan manner on tax reform.

Even though some of these bills were introduced individually with some bipartisan support, the opposition to these bills is based on the position that these tax provisions should not be made permanent by adding to the deficit without any revenue offset. Our nation's food banks play a vital role in feeding some of America's most vulnerable people, this fact is undeniable. But the approach that the Committee Republicans are taking with respect to this and other important legislation undermines that bipartisan support that the provisions enjoy. The American people expect a tax code that maintains and supports our shared priorities, and each time the Committee considers these bills in a piecemeal approach, it is taking a step in the wrong direction and away from comprehensive tax reform.

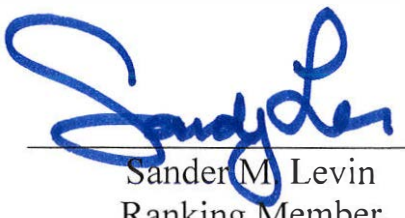
We all support the good works of the charitable community and strive to provide charities with the resources they need to carry out their charitable mission. The markup was not to debate the good works of charities across this country, or the merits of H.R. 640, which modify the excise tax rate paid by private foundations on their investment income.

Finally, we also oppose the manner in which Republicans were proceeding—selecting seven provisions to make permanent at a cost of nearly

$100 billion without any offset. In fact, this provision is not part of the traditional list of extenders, the 60 provisions that expired at the end of last year. This approach is both fiscally irresponsible and contrary to the goals of bipartisan, comprehensive tax reform.

Expired provisions must be dealt with in a comprehensive manner. The Republicans did not take up other tax extenders that also are important to Democratic Committee Members. Left to an uncertain fate are provisions like the Work Opportunity Tax Credit, the New Markets Tax Credit, and the renewable energy tax credits, as well as the long-term status of the Earned Income Tax Credit, the Child Tax Credit, and the American Opportunity Tax Credit.

Sincerely,



Sander M. Levin
Ranking Member

114TH CONGRESS
1ST SESSION

H. R. 640

[Report No. 114–]

To amend the Internal Revenue Code of 1986 to modify the tax rate for excise tax on investment income of private foundations.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 2, 2015

Mr. PAULSEN (for himself and Mr. DANNY K. DAVIS of Illinois) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

FEBRUARY --, 2015

Reported from the Committee on Ways and Means with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on February 2, 2015]

A BILL

To amend the Internal Revenue Code of 1986 to modify the tax rate for excise tax on investment income of private foundations.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. SHORT TITLE.

This Act may be cited as the "Private Foundation Excise Tax Simplification Act of 2015".

SECTION 2. MODIFICATION OF THE TAX RATE FOR THE EXCISE TAX ON INVESTMENT INCOME OF PRIVATE FOUNDATIONS.

(a) IN GENERAL.—Section 4940(a) of the Internal Revenue Code of 1986 is amended by striking "2 percent" and inserting "1 percent".

(b) ELIMINATION OF REDUCED TAX WHERE FOUNDATION MEETS CERTAIN DISTRIBUTION REQUIREMENTS.—Section 4940 of such Code is amended by striking subsection (e).

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

SEC. 3. BUDGETARY EFFECTS.

The budgetary effects of this Act shall not be entered on either PAYGO scorecard maintained pursuant to section 4(d) of the Statutory Pay-As-You-Go Act of 2010.