



COUNCIL on FOUNDATIONS

Pension Protection Act of 2006 (H.R. 4): Provisions Affecting Supporting Organizations

Provision (H.R. 4)	Effective date (date of enactment is August 17, 2006)	Supporting Organization			
		Type I	Type II	Type III	
				Not functionally integrated	Functionally integrated
New type of supporting organization (§1243)	Effective on the date of enactment	-	-	-	New category. A type III supporting organization is functionally integrated if it satisfies the “integral part” test under the “but for” test
Definitional changes (§1241)	Effective on the date of enactment (with some transitional rules)	Does not qualify for type I status if it accepts a gift from a person who directly or indirectly controls a supported organization; organization would be reclassified as a private foundation	None	Does not qualify for type III status if it accepts a gift from a person who directly or indirectly controls a supported organization; organization would be reclassified as a private foundation Must provide to each supported organization the information that the Secretary of Treasury requires May not support a foreign organization The power to enforce the trust will no longer be sufficient to demonstrate that type III charitable trusts meet the responsiveness test	
Charitable deduction for gifts to donor advised funds held at supporting organization (§1234)	Gifts made beginning 180 days after date of enactment (Feb. 13, 2006)	Deductible, with proper acknowledgment	Deductible, with proper acknowledgment	No deduction	Deductible, with proper acknowledgment
IRA charitable distributions (§1201)	Contributions in 2006 and 2007	Organization not eligible to receive qualified charitable distributions from an IRA	Organization not eligible to receive qualified charitable distributions from an IRA	Organization not eligible to receive qualified charitable distributions from an IRA	Organization not eligible to receive qualified charitable distributions from an IRA
Excess benefit transactions rules (§1242)	Transactions occurring after July 25, 2006 (generally)	Applicable (new prohibited transactions)	Applicable (new prohibited transactions)	Applicable (new prohibited transactions)	Applicable (new prohibited transactions)

DISCLAIMER

The information provided in this booklet is based on our continuing analysis of the bill. Every effort has been made to ensure accuracy of these documents. Please understand, however, that due to the complexity of the bill and the fact that many of these provisions introduce issues that are new to the Internal Revenue Code, this information is subject to change. The information is not a substitute for expert legal, tax or other professional advice and we strongly encourage grantmakers and donors to work with their counsel to determine the impact of this legislation on their particular situations. This information may not be relied upon for the purposes of avoiding any penalties that may be imposed under the Internal Revenue Code.

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		Type I	Type II	Type III	
				Not functionally integrated	Functionally integrated
Excess business holdings rule (§1243)	Rules apply beginning with tax years beginning after date of enactment (business interests contributed prior to Aug. 17, 2006 are subject to a transition rule)	Not applicable	Not applicable supported organization is controlled by supporting organization's donors (certain exemptions may apply)	Applicable (certain exemptions may apply)	Not applicable
New payout requirement (§1241)	Effective with the date of enactment	None	None	Yes (to be promulgated by Secretary of the Treasury)	None
New rules for grants from donor advised funds to supporting organization (§1231)	Distributions made in tax years beginning after date of enactment	No expenditure responsibility required unless donor or advisor controls a supported organization, or the Secretary of the Treasury determines by regulation that a distribution is inappropriate	No expenditure responsibility required unless donor or advisor controls a supported organization, or the Secretary of the Treasury determines by regulation that a distribution is inappropriate	Expenditure responsibility required	No expenditure responsibility required unless donor or advisor controls a supported organization, or the Secretary of the Treasury determines by regulation that a distribution is inappropriate
New rules for grants from private non-operating foundation to supporting organization (§1244)	Distributions and expenditures made after date of enactment	If a disqualified person of the private foundation directly or indirectly controls the supporting organization or a supported organization, or the Secretary of the Treasury determines by regulation that a distribution is inappropriate, then expenditure responsibility is required and the grant will not be a qualifying distribution for purposes of the foundation's payout requirement	If a disqualified person of the private foundation directly or indirectly controls the supporting organization or a supported organization, or the Secretary of the Treasury determines by regulation that a distribution is inappropriate, then expenditure responsibility is required and the grant will not be a qualifying distribution for purposes of the foundation's payout requirement	Expenditure responsibility is required and the grant will not be a qualifying distribution for purposes of the foundation's payout requirement	If a disqualified person of the private foundation directly or indirectly controls the supporting organization or a supported organization, or the Secretary of the Treasury determines by regulation that a distribution is inappropriate, then expenditure responsibility is required and the grant will not be a qualifying distribution for purposes of the foundation's payout requirement
New Form 990 reporting rules (§1245)	Returns filed after date of enactment	Applicable	Applicable	Applicable	Applicable