

CHARITABLE GIFT PLANNING NEWS

JERRY J. MCCOY, J.D., LL.M. KATHLEEN QUINN, J.D.
TERRY T. SIMMONS, J.D., LL.M. REYNOLDS CAFFERATA, J.D.
FRANK DRYBURGH, J.D.

Vol. 27/No. 5
May 2009

WASHINGTON REPORT

Wait and See

It can be a frustrating process to watch a budget proposal work its way through the legislative process, all the more so when there is a provision in there that you really care about. This year is no exception. After a lot of back-and-forth about several items of interest to charitable gift planners, on April 29, the House and the Senate both passed a Congressional budget resolution for fiscal year 2010. This provides for about \$3.5 trillion in federal spending in the fiscal year that begins October 1, and paves the way for enactment of several Obama Administration priorities.

There were several preliminary skirmishes on the reform of the federal estate tax

and the administration's proposal to limit the deductibility of itemized deductions for high-income families, but neither of these issues is entirely resolved at this point. The budget committees in both houses adopted plans that would have simply made permanent the version of the estate tax that applies for 2009, with a \$3.5 million exemption (\$7 million for a married couple) and a top rate of 45%. The Senate narrowly adopted an amendment to increase the exemption to \$5 million (\$10 million for a married couple) and lower the top rate from 35%, provided this didn't increase the federal deficit, but this was left out of the final version.

Another Senate amendment attempted to restrain adoption of the Administration's proposal to limit itemized deductions (including the charitable deduction) claimed by taxpayers in the top brackets. The final version passed on April 29 did not address this point specifically. Now the House Ways and Means Committee and the Senate Finance Committee must tackle the job of preparing specific tax legislation to fill the general outline provided by the Congressional budget resolution. That task may not be completed for some time, particularly since the budget presents a wide variety of potentially contentious issues.

One item that is specifically addressed in the budget resolution is the Charitable IRA. Section 316 of the resolution authorizes the extension of "incentives for enhanced charitable giving from individual retirement accounts, including life-income gifts," but with a catch. This would be permitted under the resolution only if doing so would not increase the federal deficit over either the period of the total of fiscal years 2009 through 2014 or the period of the total of fiscal years 2009 through 2019. That seems quite

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Charitable Gift Planning News is published ten times annually by JAS Destiny, Inc. © 2009, P.O. Box 551606, Dallas, Texas 75355-1606. Annual subscription \$168. For subscription information call (214) 349-2289 or e-mail: contactcgpn@aol.com.