

**DESCRIPTION OF H.R. 1432,
THE “VSO EQUAL TAX TREATMENT ACT”**

Scheduled for Markup
By the
HOUSE COMMITTEE ON WAYS AND MEANS
on November 30, 2023

Prepared by the Staff
of the
JOINT COMMITTEE ON TAXATION



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INTRODUCTION

The House Committee on Ways and Means has scheduled a committee markup on November 30, 2023 of H.R. 1432, the “VSO Equal Tax Treatment Act,” or “VETT Act.” This document,¹ prepared by the staff of the Joint Committee on Taxation, provides a description of the bill.

¹ This document may be cited as follows: Joint Committee on Taxation, *Description of H.R. 1432, the “VSO Equal Tax Treatment Act”* (JCX-54-23), November 28, 2023. This document can also be found on the Joint Committee on Taxation website at www.jct.gov. All section references herein are to the Internal Revenue Code of 1986, as amended (the “Code”), unless otherwise stated.

A. Deductibility of Charitable Contributions to Certain Organizations for Members of the Armed Forces

Present Law

Charitable contribution deduction

In computing taxable income, an individual taxpayer who itemizes deductions or a corporate taxpayer generally is allowed to deduct the amount of cash and the fair market value of property contributed to an organization described in section 501(c)(3) or to a Federal, State, or local governmental entity, including to most educational organizations.²

The amount of the deduction allowable for a taxable year with respect to a charitable contribution of property may be reduced or limited depending on the type of property contributed, the type of charitable organization to which the property is contributed, and the income of the taxpayer.³ For individual taxpayers, more generous charitable contribution deduction rules (under section 170(b)(1)(A)) apply to gifts made to public charities than to gifts made to private foundations. Contributions of cash to a public charity generally are deductible up to 60 percent⁴ of the donor's adjusted gross income ("AGI")⁵ (30 percent for capital gain property, and 50 percent for non-capital gain property other than cash), whereas contributions to most private foundations generally are deductible up to 30 percent of the donor's AGI (20 percent for capital gain property).⁶ For corporate taxpayers, the deductible amount of charitable contributions generally is limited to 10 percent of taxable income.⁷ For all taxpayers, gifts of capital gain property to a public charity generally are deductible at the property's fair market value,⁸ whereas gifts of capital gain property (other than publicly traded stock) to most private foundations are deductible at the taxpayer's basis (cost) in the property.⁹

² Within certain limitations, donors also are entitled to deduct such contributions for estate and gift tax purposes. See secs. 2055 and 2522.

³ Sec. 170(b) and (e).

⁴ For contributions made in taxable years beginning after December 31, 2025, the 60-percent limit is reduced to 50 percent. Sec. 170(b)(1)(G)(i).

⁵ The charitable percentage limits are applied to the donor's "contribution base," which is the donor's AGI computed without regard to any net operating loss carryback to the taxable year under section 172. Sec. 170(b)(1)(H).

⁶ Sec. 170(b)(1).

⁷ Sec. 170(b)(2).

⁸ Sec. 170(e)(1). However, contributions of tangible personal property not for an exempt purpose of the donee organization are deductible at the taxpayer's basis in the property. Sec. 170(e)(1)(B)(i). A special rule determines the aggregate deduction for contributions of certain intellectual property. Secs. 170(e)(1)(B)(iii) and 170(m).

⁹ Sec. 170(e)(1)(B)(ii) and 170(e)(5).

Certain veterans' organizations (section 501(c)(19))

Under present law, a veterans' organization described in section 501(c)(19) is exempt from Federal income tax under section 501(a). Section 501(c)(19) generally describes a post or organization of past or present members of the Armed Forces of the United States that is organized in the United States, provided that at least 75 percent of its members are past or present members of the Armed Forces and substantially all of its other members are individuals who are cadets or are spouses, widows, widowers, ancestors, or lineal descendants of past or present members of the Armed Forces or of cadets.

Certain posts or organizations of war veterans that are exempt from income taxation under section 501(c)(19) may also be eligible to receive contributions that are deductible as charitable contributions for income tax purposes under section 170(c)(3). To qualify, however, the organization must satisfy a membership requirement that is more restrictive than the 75-percent test under section 501(c)(19), as well as a purposes requirement.¹⁰ An organization satisfies the membership requirement under section 170(c)(3) if at least 90 percent of its members are war veterans and substantially all other members are either veterans (other than war veterans), or are cadets, or are spouses, widows, or widowers of war veterans, other veterans, or cadets. An organization satisfies the purposes requirement if it is organized and operated primarily for purposes that are consistent with its status as a war veterans' organization.¹¹

Description of Proposal

Under the proposal, an organization described in section 501(c)(19) of the Code is eligible to receive contributions that are deductible as charitable contributions for income tax purposes, provided that the organization is a Federally chartered corporation. In addition, such a charitable contribution, when made by an individual, qualifies for the more generous charitable contribution percentage limitations that generally apply to contributions to public charities described in section 170(b)(1)(A) of the Code.

Effective Date

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

¹⁰ See Rev. Rul. 84-140, 1984-2 C.B. 56.

¹¹ The gift tax charitable deduction similarly applies to contributions to organizations of war veterans. See sec. 2522(a)(4). The estate tax charitable deduction, however, generally applies to bequests to veterans' organizations (not limited to war veterans' organizations) that are incorporated by Act of Congress. See sec. 2055(a)(4).

B. Estimated Revenue Effects

The following table shows the estimated effect of the proposal on Federal fiscal year budget receipts.

Fiscal Years [Millions of Dollars]											
<u>2024</u>	<u>2025</u>	<u>2026</u>	<u>2027</u>	<u>2028</u>	<u>2029</u>	<u>2030</u>	<u>2031</u>	<u>2032</u>	<u>2033</u>	<u>2024-28</u>	<u>2024-33</u>
[1]	[1]	[1]	[1]	[1]	[1]	[1]	[1]	[1]	[1]	-1	-1

[1] Loss of less than \$500,000.