AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 9721

OFFERED BY MR. SMITH OF MISSOURI

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fiscal Sponsorship Transparency Act of 2026".

SEC. 2. TREATMENT OF FISCAL SPONSORSHIP ARRANGEMENTS.

(a) REPORTING REQUIREMENTS.—

(1) IN GENERAL.—Section 6033(b) of the Internal Revenue Code of 1986 is amended by striking "and" at the end of paragraph (15)(B), by redesignating paragraph (16) as paragraph (17), and by inserting after paragraph (15) the following new paragraph:

"(16) with respect to each fiscal sponsorship arrangement of the organization in effect during the taxable year—

"(A) the name of each party (other than any individuals) to such arrangement, "(B)(i) in the case of a fiscal sponsorship arrangement described in subsection (p)(1)(B)(ii), the aggregate amounts made available during the taxable year under such arrangement for the specifically identified project described in such subsection,

"(ii) in the case of any other fiscal sponsorship arrangement, the aggregate amounts transferred during the taxable year under such arrangement to the person on whose behalf the organization receives and administers amounts, and

"(iii) a description of the activities to which the amounts so made available or transferred, as the case may be, relate,

"(C) the name of an individual designated as the principal officer managing such fiscal sponsorship arrangement on behalf of the organization, and

"(D) the date on which the arrangement began and, if applicable, ended, and".

(2) FISCAL SPONSORSHIP ARRANGEMENT.—Section 6033 of such Code is amended by redesignating subsection (p) as subsection (q) and by in-

serting after subsection (o) the following new subsection:

"(p) FISCAL SPONSORSHIP ARRANGEMENT.—

"(1) IN GENERAL.—For purposes of this section, the term 'fiscal sponsorship arrangement' means, with respect to an applicable organization, an arrangement—

"(A) between the organization and another person that is not exempt from tax under section 501(a),

"(B) under which—

"(i) the organization agrees for consideration to receive and administer amounts on behalf of such other person, or

"(ii)(I) the organization publicly solicits amounts for carrying on a specifically identified project that is represented as a means to further an exempt purpose of the organization,

"(II) the organization agrees to receive and administer amounts directed to such project and make such amounts available for the organization to carry out the project (less an amount specified in the arrangement to be used by the organization for other purposes), and

"(III) either the organization or such other person may terminate the arrangement, and

"(C) under which the organization retains discretion and control over such amounts to ensure such amounts are used to further an exempt purpose of the organization.

"(2) SPECIAL RULE FOR OTHERWISE DISREGARDED ENTITIES.—For purposes of paragraph (1), any entity—

"(A) which is owned (directly or indirectly) by the organization, and

"(B) which would (but for this paragraph) be disregarded as an entity separate from its owner,

shall be treated as an entity that is separate from its owner and that is not exempt from tax under section 501(a).

"(3) APPLICABLE ORGANIZATION.—For purposes of this subsection, the term 'applicable organization' means an organization to which subsection (b) applies, other than—

"(A) a private foundation (as defined in section 509(a)), or

"(B) a donor advised fund (as defined in section 4966(d)(2)).".

(b) NO DEDUCTION ALLOWED FOR CONTRIBUTIONS UNDER IMPROPER CONDUIT ARRANGEMENT.—Section 170(c) of such Code is amended by adding at the end the following: "The term 'charitable contribution' shall not include any contribution or gift made under an improper conduit arrangement (as defined in section 4960A(d)(2)).".

(c) TAXES IMPOSED ON IMPROPER CONDUIT ARRANGEMENTS.—

(1) IN GENERAL.—Subchapter D of chapter 42 of such Code is amended by adding at the end the following new section:

"SEC. 4960A. TAXES ON IMPROPER CONDUIT ARRANGEMENTS.

"(a) INITIAL TAXES.—

"(1) ON THE ORGANIZATION.—In the case of a specified tax-exempt organization, there is hereby imposed on any amount knowingly transferred pursuant to an improper conduit arrangement a tax equal to 20 percent of the amount thereof. The tax imposed by this paragraph shall be paid by the organization.

"(2) ON THE MANAGEMENT.—In any case in which a tax is imposed by paragraph (1) with respect to a transfer pursuant to an improper conduit arrangement, there is hereby imposed on the agreement of any organization manager to the making of such transfer, knowing such arrangement is an improper conduit arrangement, a tax equal to 5 percent of the amount thereof, unless such agreement is not willful and is due to reasonable cause. The tax imposed by this paragraph shall be paid by the organization manager who agreed to the transfer.

"(b) ADDITIONAL TAXES.—

"(1) ON THE ORGANIZATION.—In any case in which an initial tax is imposed by subsection (a)(1) with respect to a transfer pursuant to an improper conduit arrangement and such transfer is not corrected within the taxable period, there is hereby imposed a tax equal to 100 percent of the amount of the transfer. The tax imposed by this paragraph shall be paid by the organization.

"(2) ON THE MANAGEMENT.—In any case in which an additional tax is imposed by paragraph (1), if an organization manager refused to agree to part or all of the correction, there is hereby imposed a tax equal to 50 percent of the amount of the transfer. The tax imposed by this paragraph shall be paid by any organization manager who refused to agree to part or all of the correction.

"(c) SPECIAL RULES.—For purposes of this section—

"(1) JOINT AND SEVERAL LIABILITY.—If more than one person is liable under subsection (a)(2) or (b)(2) with respect to a transfer, all such persons shall be jointly and severally liable under such paragraph with respect to such transfer.

"(2) LIMIT FOR MANAGEMENT.—With respect to any improper conduit arrangement, the maximum amount of the tax imposed by subsection (a)(2) shall not exceed $10,000, and the maximum amount of the tax imposed by subsection (b)(2) shall not exceed $20,000.

"(d) DEFINITIONS.—For purposes of this section—

"(1) SPECIFIED TAX-EXEMPT ORGANIZATION.— The term 'specified tax-exempt organization' means—

"(A) an organization that is exempt from tax under section 501(a) and is described in section 501(c)(3), or

"(B) any organization which was described in subparagraph (A) at any time during the 5-year period ending on the date of the transfer pursuant to an improper conduit arrangement.

"(2) IMPROPER CONDUIT ARRANGEMENT.—The term 'improper conduit arrangement' means, with respect to a specified tax-exempt organization, an arrangement (express or implied) with another person under which—

"(A) contributions are solicited or received to be transferred to a specifically identified person not exempt from tax under section 501(a), and

"(B) the organization fails to exercise discretion and control over the use of the funds.

"(3) CORRECTION.—The terms 'correction' and 'correct' mean, with respect to any transfer to which this section applies, recovering part or all of the transfer to the extent recovery is possible, and where full recovery is not possible such additional corrective action as is prescribed by the Secretary by regulations.

"(4) TAXABLE PERIOD.—The term 'taxable period' means, with respect to any transfer under an improper conduit arrangement, the period beginning with the date on which the transfer occurs and ending on the earlier of—

"(A) the date of mailing of a notice of deficiency with respect to the tax imposed by subsection (a)(1) under section 6212, or

"(B) the date on which tax imposed by subsection (a)(1) is assessed.

"(5) ORGANIZATION MANAGER.—The term 'organization manager' means, with respect to any specified tax-exempt organization, any officer, director, or trustee of such organization (or any individual having powers or responsibilities similar to those of officers, directors, or trustees of the organization).".

(2) CLERICAL AMENDMENT.—The table of sections for subchapter D of chapter 42 of such Code is amended by adding at the end the following new item:

"Sec. 4960A. Taxes on improper conduit arrangements.".

(d) REGULATIONS.—The Secretary of the Treasury shall prescribe such regulations as may be necessary or appropriate to clarify—

(1) arrangements to which section 6033(p)(1) of the Internal Revenue Code of 1986 (as added by this Act) applies, and

(2) what constitutes ''discretion and control'' for purposes of sections 6033(p)(1)(C) and 4960A(d)(2)(B) of such Code (as added by this Act).

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2027.