



# Charitable Volunteers Mileage Reimbursement

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## Summary

In the 110<sup>th</sup> Congress, several bills (S. 403, S. 1220, H.R. 606, and H.R. 2020) include proposals to alter the mileage deduction allowed for charitable purposes. Many proposals would allow nonprofit organizations to reimburse volunteers (without income tax consequences) for mileage driven for charitable purposes up to the business mileage rate (set at 48.5 cents per mile for 2007). The taxpayer is precluded from taking a charitable deduction if he/she is reimbursed by the nonprofit entity. Current law allows nontaxable reimbursements by charities up to the charitable mileage rate of 14 cents per mile.

The primary arguments in favor of the tax law change include tax simplification for both charities and volunteers and the incentive effect encouraging volunteers to use their automobiles in performing charitable services (especially in those cases where volunteers claim the standard deduction). It is also argued that the provision shows the government's support for and willingness to help in financing socially desirable activities. The primary arguments voiced by opponents are that the provision may be abused, that some volunteers may be overcompensated for automobile-related expenditures, and that the adoption of these proposals will reduce federal tax revenues. In all cases, the taxpayer receives a greater monetary benefit from reimbursement than from the deduction whether at the 14 or 48.5 cents per mile rate.

This report will be updated as legislation progresses through the Congress.

## **Current Law**

Charitable contributions made by individuals to charitable organizations<sup>1</sup> are deductible from income for those taxpayers who itemize deductions. No charitable deduction is available for the value of any services rendered by volunteers.<sup>2</sup> However, volunteers are permitted to deduct their “out of pocket” expenses incurred in providing donated services—when those expenses are not reimbursed.

As one example, when a volunteer uses his or her passenger automobile (including vans, pickups, and panel trucks) for charitable purposes, a standard charitable mileage rate deduction of 14 cents per mile is provided under law.<sup>3</sup> Alternatively, the taxpayer may deduct actual out-of-pocket expenses. In either case, the volunteer is allowed to deduct other directly related expenditures such as parking fees and tolls. However, if the taxpayer uses the standard deduction, no income tax deduction for charitable contributions is currently available. There are no income tax consequences when the volunteer is reimbursed by a charitable organization so long as the reimbursement does not exceed 14 cents per mile. Reimbursements above the 14 cents standard mileage expense rate are included in the taxable income of the volunteer.

Special rules were included in the Katrina Emergency Tax Relief Act of 2005 (P.L. 109-73) for taxpayers who use their personal vehicle for charitable work related to Hurricane Katrina. The standard mileage rate for Hurricane Katrina charity work was increased to 70% of the standard business mileage rate. In the case of reimbursements for the use of a volunteer’s passenger automobile used in Katrina relief efforts, the exclusion applied up to the standard business mileage rate (at that time the rate was 48.5 cents per mile). Both of these provisions were effective for the period August 25, 2005, through December 31, 2006.<sup>4</sup> Taxpayers making use of these provisions were required to substantiate that expenses were incurred in providing relief related to Hurricane Katrina. Substantiation typically included a written record of the date of service, the number of miles driven, the name(s) of charitable organization(s) served, the locations where the services were provided, and the charitable purposes.

## **Proposals for Change**

In the 109<sup>th</sup> Congress, Title III of S. 6, the Care Act of 2005, included a provision<sup>5</sup> that would have allowed charitable entities to reimburse volunteers for automotive expenses up to the optional standard mileage allowance permitted for businesses.<sup>6</sup> Under this proposal, such

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<sup>1</sup> These nonprofit organizations are defined in the Internal Revenue Code §170(c).

<sup>2</sup> Internal Revenue Code §170 does not specifically state that charitable contributions are limited to money or property. Thus, while Congress has not clearly stated that contributions of time or services are not to be allowable as deductions, neither has it affirmed that they are. However, since 1920, the Treasury Department has ruled consistently that there was no deduction available for the value of services rendered. The courts have upheld the Treasury Department’s position.

<sup>3</sup> Congress first set a deductible 12 cents per mile rate as part of the Deficit Reduction Act of 1984 (P.L. 98-369). The rate was raised to 14 cents per mile under a provision contained in the Taxpayer Relief Act of 1997 (P.L. 105-34).

<sup>4</sup> The mileage rates were 29 cents per mile for the seven-day period of August 25 to August 31, 2005, and 34 cents per mile from September 1 until the end of 2005.

<sup>5</sup> Section 111 of the bill would have enacted a new section (139A) of the Internal Revenue Code.

<sup>6</sup> The business mileage rate was 40.5 cents for most of tax year 2005. It was set at 48.5 cents for the last four months of that year.

reimbursements would not be included in the income of the volunteer. To the extent of reimbursements, no other deduction or credit would be allowable with regard to those same automotive expenses. If passed into law, the provision would have been effective for tax years beginning after the date of enactment. Likewise, S. 315 proposed this same tax treatment for reimbursed amounts paid to volunteers by charitable organizations.

In the 110<sup>th</sup> Congress, legislation (H.R. 2419, H.R. 1827) includes measures to provide that reimbursements for costs of using passenger automobiles for charitable purposes are excluded from income. The reimbursements are allowed only if they are limited to the amount of the standard business mileage rate. H.R. 606 proposes similar measures.<sup>7</sup>

Related to these reimbursable proposals are proposals which call for a higher charitable contribution mileage deduction. That rate has not been increased since 1997. In the 110<sup>th</sup> Congress, S. 403, S. 1220, and H.R. 2020 propose to equalize the standard mileage rate for charitable purposes with that for business purposes. This equalization was enacted temporarily in 2005 in response to hurricane relief efforts in the Gulf region.

## **Discussion**

The rationale of current law for the lower mileage allowance applicable for charitable purposes is that only directly attributable automotive expenses should be deductible. Therefore, no portion of the costs for general maintenance or repair of the automobile, depreciation, or other costs such as insurance, state or local tags, or registration fees are includable in the current charitable standard mileage allowance. Such costs are included—and account for the higher mileage rate—for business purposes. The reasoning underlying the provision is that these indirect costs are not incurred primarily to provide charitable services and, therefore, should not be reflected in the standard rate for charitable purposes.

In support of the proposed provision to allow reimbursements greater than the charitable contribution mileage rate, proponents argue that when charitable organizations make reimbursements greater than 14 cents per mile (and up to the business mileage rate) allowing full exclusion would simplify return filing for both the charitable organization (information returns) and the volunteers (income tax returns) who receive reimbursements. It is asserted that the provision would help finance socially desirable activity and that without charitable incentives the federal government would be pressured to assume some activities now provided by charities. Further, proponents maintain that the provision could reduce the compliance problems faced by the Internal Revenue Service for whom it is not cost effective to audit taxpayers when only small dollar amounts are involved.

In the case of proposals to increase the charitable contribution mileage deduction, it has been noted that the statutory rate has not been increased since 1997 while automotive costs have risen substantially. It is often expressed that the increase would encourage charitable activity.

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<sup>7</sup> Specifically, H.R. 606, the Volunteer Emergency Responder Fair Mileage Act of 2007, proposes to exclude from the gross income of volunteer firefighters and emergency medical responders reimbursements of automobile operating expenses incurred for the benefit of a volunteer fire department; and to allow such volunteers to deduct such automobile operating expenses using the higher business mileage rate instead of the standard charitable rate.

The primary arguments against the proposed changes are that it may be abused, may overcompensate volunteers for their automobile related expenditures, and that the provision will reduce federal revenues. The Joint Committee on Taxation estimated that adoption of the reimbursement provision would result in the loss of \$2 million over the five-year fiscal period from 2008-2012 and \$4 million over the period 2008-2017.<sup>8</sup> Perhaps an unintended result of the legislation is that volunteers may request reimbursement rather than seeking an income tax deduction. In all cases, the taxpayer would receive a greater monetary benefit from reimbursement.<sup>9</sup> If the reimbursement provision is enacted into law, it may be argued that the charitable standard mileage deduction rate should be raised to the business mileage rate to provide (if not equality) balance.

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<sup>8</sup> U.S. Congress, Joint Committee on Taxation, *Estimated Budget Effects of Title XII of H.R. 2419, the Heartland, Habitat, Harvest and Horticulture Act of 2007*, JCX-3-08, 110<sup>th</sup> Cong., 2<sup>nd</sup> sess. (Washington: GPO, 2008), p. 7.

<sup>9</sup> First, the deduction's current value is the taxpayer's marginal tax rate multiplied by 14 cents per mile. For example, in 2005 a married taxpayer filing a joint return with income between \$59,400 and \$119,950 has a marginal tax bracket of 25%. The value of the deduction for 100 miles of charitable travel (not related to Hurricane Katrina) would be \$3.50 (14¢ X 100=\$14.00 X 25%). Under current law, if the taxpayer were reimbursed for such travel at a 14 cents per mile rate the value would be \$14. The maximum reimbursement under the proposal for a 100 mile trip would be \$48.50.

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