

# EXTENSIONS OF REMARKS

## A BILL TO HALT CHARITABLE SPLIT-DOLLAR LIFE INSURANCE

**HON. BILL ARCHER**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 9, 1999*

Mr. ARCHER. Mr. Speaker, today Congressman RANGEL and I are introducing H.R. 630, legislation designed to stop the spread of an abusive scheme referred to as charitable split-dollar life insurance. Under this scheme, taxpayers transfer money to a charity, which the charity then uses to pay premiums for life insurance on the transferor or another person. The beneficiaries under the life insurance contract typically include members of the transferor's family (either directly or through a family trust or family partnership). Having passed the money through a charity, the transferor claims a charitable contribution deduction for money that is actually being used to benefit the transferor and his or her family. If the transferor or the transferor's family paid the premium directly, the payment would not be deductible. Although the charity eventually may get some of the benefit under the life insurance contract, it does not have unfettered use of the transferred funds.

We are concerned that this type of transaction represents an abuse of the charitable contribution deduction. We are also concerned that the charity often gets relatively little benefit from this type of scheme, and serves merely as a conduit or accommodation party, which we do not view as appropriate for an organization with tax-exempt status. While there is no basis under present law for allowing a charitable contribution deduction in these circumstances, we intend that the introduction of this bill stop the marketing of these transactions immediately.

Therefore, our bill clarifies present law by specifically denying a charitable contribution deduction for a transfer to a charity if the charity directly or indirectly pays or paid any premium on a life insurance, annuity or endowment contract in connection with the transfer, and any direct or indirect beneficiary under the contract is the transferor, any member of the transferor's family, or any other noncharitable person chosen by the transferor. In addition, the bill clarifies present law by specifically denying the deduction for a charitable contribution if, in connection with a transfer to the charity, there is an understanding or exception that any person will directly or indirectly pay any premium on any such contract. Further, the bill imposes an excise tax on the charity, equal to the amount of the premiums paid by the charity. Finally, the bill requires a charity to report annually to the Internal Revenue Service the amount of premiums subject to this excise tax and information about the beneficiaries under the contract.

### TECHNICAL EXPLANATION DEDUCTION DENIAL

Specifically, the bill provides that no charitable contribution deduction is allowed for

purposes of Federal tax, for a transfer to or for the use of an organization described in section 170(c) of the Internal Revenue Code, if in connection with the transfer (1) the organization directly or indirectly pays, or has previously paid, any premium on any "personal benefit contract" with respect to the transferor, or (2) there is an understanding or expectation that any person will directly or indirectly pay any premium on any "personal benefit contract" with respect to the transferor. It is intended that an organization be considered as indirectly paying premiums if, for example, another person pays premiums on its behalf.

A personal benefit contract with respect to the transferor is any life insurance, annuity, or endowment contract, if any direct or indirect beneficiary under the contract is the transferor, any member of the transferor's family, or any other person (other than a section 170(c) organization) designated by the transferor. For example, such a beneficiary would include a trust having a direct or indirect beneficiary who is the transferor or any member of the transferor's family, and would include an entity that is controlled by the transferor or any member of the transferor's family. It is intended that a beneficiary under the contract include any beneficiary under any side agreement relating to the contract. If a transferor contributes a life insurance contract to a section 170(c) organization and designates one or more section 170(c) organizations as the sole beneficiaries under the contract, generally, it is not intended that the deduction denial rule under the bill apply. If, however, there is an outstanding loan under the contract upon the transfer of the contract, then the transferor is considered as a beneficiary. The fact that a contract also has other direct or indirect beneficiaries (persons who are not the transferor or a family member, or designated by the transferor) does not prevent it from being a personal benefit contract. The bill is not intended to affect situations in which an organization pays premiums under a legitimate fringe benefit plan for employees.

It is intended that a person be considered as an indirect beneficiary under a contract if, for example, the person receives or will receive any economic benefit as a result of amounts paid under or with respect to the contract. For this purpose, an indirect beneficiary is not intended to include a person that benefits exclusively under a bona fide charitable gift annuity (within the meaning of sec. 501(m) (or a bona fide reinsurance arrangement with respect to such a charitable gift annuity)). Because we understand that a charitable gift annuity ordinarily does not involve a contract issued by an insurance company, the bill does not provide for special treatment of charitable gift annuities.

### EXCISE TAX

The bill imposes on any organization described in section 170(c) of the Code an excise tax, in the amount of the premiums paid by the organization on any life insurance, annuity, or endowment contract, if the payment of premiums on the contract is in connection with a transfer for which a deduction is not allowable under the deduction denial rule of the provision. The excise tax does not apply if all of the direct and indirect beneficiaries under the contract (including any related side agreement) are organizations described

in section 170(c). Under the bill, payments are treated as made by the organization, if they are made by any other person pursuant to an understanding or expectation of payment.

### REPORTING

The bill requires that the organization annually report the amount of premiums that is paid during the year and that is subject to the excise tax imposed under the provision, and the name and taxpayer identification number of each beneficiary under the contract to which the premiums relate, as well as other information required by the Secretary of the Treasury. For this purpose, it is intended that a beneficiary include the beneficiary under any side agreement to which the section 170(c) organization is a party (or of which it is otherwise aware). Penalties applicable to returns required under Code section 6033 apply to returns under this reporting requirement. Returns required under this provision are to be furnished at such time and in such manner as the Secretary shall by forms or regulations require.

### REGULATIONS

The bill provides for the promulgation of regulations necessary to carry out the purposes of the provisions.

### EFFECTIVE DATE

The deduction denial provision of the bill applies to transfers after February 8, 1999. The excise tax provision of the bill applies to premiums paid after the date of enactment. The reporting provision applies to premiums (that would be subject to the excise tax were it then effective) paid after February 8, 1999.

No inference is intended that a charitable contribution deduction is allowed under present law in the circumstances to which this bill applies. The bill does not change the rules with respect to fraud or criminal or civil penalties under present law; thus, actions constituting fraud or that are subject to penalties under present law would still constitute fraud or be subject to the penalties after enactment of the bill.

## CONGRATULATING DERAN KOLIGIAN AND JUDITH CASE

**HON. GEORGE RADANOVICH**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 9, 1999*

Mr. RADANOVICH. Mr. Speaker, I rise today to congratulate Deran Koligian and Judith Case on their election to the Fresno County Board of Supervisors. Supervisor Koligian and Supervisor Case were sworn in on January 11, 1999.

Supervisor Deran Koligian represents the First Supervisorial District on the Fresno County Board of Supervisors. He represents a portion of the urban area of Fresno and a large agricultural region in western Fresno County. Deran Koligian was elected to serve as the 1996 Chairman of the Fresno County Board of Supervisors.

Supervisor Koligian has been an outspoken advocate for agriculture as a member of the Board of Supervisors of Fresno County—the

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nation's number one producer of agricultural products. In connection with his duties as Supervisor of District One, Koligian has served the community on numerous committees.

Supervisor Judith Case is the Vice-Chairman on the Fresno County Board of Supervisors and represents District Four. Supervisor Case has been mayor of Sanger for the past two years and was recently elected to the Board.

Judy Case has spent the majority of her life serving the community in the health field. She was the Administrative Director and Director for St. Agnes Medical Center, Assistant Vice President of Valley Childrens Hospital, Director of the Selma District Hospital, Senior Health Planner for Central California Health Systems Agency in Visalia, Control Management Intern for Texas Instruments in Dallas, and a Registered Nurse at Fresno Community Hospital and Medical Center.

Mr. Speaker, it is with great pleasure that I congratulate Deran Koligian and Judy Case for their accomplishments and service to the community. They exemplify public service and dedication to their community and jobs. I urge my colleagues to join me in wishing Deran Koligian and Judy Case many more years of continued success.

#### CRISIS IN THE HORN OF AFRICA

### HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 9, 1999*

Mr. SAXTON. Mr. Speaker, if permitted to escalate, the mounting crisis in the Horn of Africa will have dire ramifications on the strategic posture of the United States. Presently, there is no end in sight, other than war, in this Ethiopia-Eritrea conflict. The mediation of Assistant Secretary of State Susan Rice and former National Security Advisor Anthony Lake have so far failed to reverse the slide toward war. Vital interests of the United States, Israel and the West are jeopardized, particularly if the Islamist-supported further break-up of Ethiopia is permitted to occur.

A unified Ethiopia is vital to the regional security and economic structure. If Ethiopia were to become fragmented, as Sudanese leaders seek, then Israel's economic and military security, as well as its access to the Red Sea would be jeopardized. Instability in Ethiopia would destabilize Egypt and Saudi Arabia and the vital Red Sea-Suez trade link.

The key to the reversal of the Ethiopia-Eritrea conflict and the ensuing fragmentation of Ethiopia lies in the rejuvenation of Ethiopia's national identity. Toward this end, the US needs to help Ethiopia find the unifying symbols to strengthen the country and ensure its commitment to moderation. Until 1974, Ethiopia, the region and the US benefitted greatly from the statesmanship and friendship of Emperor Haile Selassie. Ethiopia has since declined into ethnic enclaves and divisiveness, and lays open to Eritrean, Sudanese and irridentist attacks.

The Ethiopian Crown today is a Constitutional Monarchy, ready to return home to provide the inspirational symbolism under which elected day-to-day government can emerge and flourish. Moreover, the stature of the Crown throughout the Horn of Africa makes

the Crown uniquely capable of mediating an indigenous solution to the building crisis and slide toward a regional and fratricidal war. The President of the Ethiopian Crown Council and grandson of Emperor Haile Selassie is Prince Ermias Sahle-Selassie, who has repeatedly exemplified the capable, unifying symbolism which Ethiopia desperately needs. By encouraging Prince Ermias's use of the prestige of the Crown and Ethiopia's traditional elders and institutions to resolve conflict, we can help heal the rifts which are a legacy of decades of civil strife.

Mr. Speaker, I therefore urge Ethiopia's civil government to allow the Crown's return to help unify and stabilize the State, and thereby help preserve Ethiopian, regional and Western security and economic interests.

#### TRIBUTE TO MERRILL P. RICHARDSON, JR.

### HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 9, 1999*

Mr. HUNTER. Mr. Speaker, I rise today to recognize the outstanding service and dedication Mr. Merrill P. Richardson, Jr. has made to his family, community and country. Merrill has recently retired and I would like to take a moment to commend all his hard work and achievements.

A native of Brewer, Maine, Merrill committed himself to serving our country early on by joining the National Guard at the age of sixteen. One year later, Merrill enlisted in the U.S. Army and began a career that took him all over the U.S. and the world, including South Korea, West Germany, Turkey, Vietnam and England. It was here that Merrill met and married his wife of 40 years, Elizabeth. Merrill served our country faithfully and honorably and upon retirement had earned, among several honors and decorations, the Good Conduct Medal, the Meritorious Service Medal, the RNV Civil Action Medal, the Vietnam Service Medal, the National Defense Service Medal and the Bronze Star.

After being honorably discharged from the service, Merrill began a second career at Kansas State University where he worked for 20 years before retiring. Currently, Merrill is living in St. George, Kansas with Elizabeth and enjoying life with his five children Linda, Merrill III, Jeffrey, Christina and Steven, nine grandchildren and one great-grandchild.

In a time where the concepts of family and dedication are becoming more and more trivialized, people like Merrill offer hope and assurance to us all. Merrill has shown that the ideals of hard work and patriotism are not old-fashioned, but qualities of strength and character. I would like to join with many others in honoring Merrill for all his remarkable achievements and wishing him great happiness and success in all his future endeavors.

TRIBUTE TO THE 1998 RICHMOND SENIOR HIGH SCHOOL FOOTBALL TEAM ON WINNING THE NORTH CAROLINA HIGH SCHOOL ATHLETIC ASSOCIATION CLASS AAAA FOOTBALL CHAMPIONSHIP

### HON. ROBIN HAYES

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 9, 1999*

Mr. HAYES. Mr. Speaker, it is my distinct honor and pleasure to rise today to pay special tribute to an outstanding group of student-athletes from North Carolina's Eighth Congressional District. This past fall, the Richmond Senior High School Football Team completed a truly memorable season by winning the North Carolina High School Athletic Association Class AAAA Football Championship.

The 1998 Richmond Senior High School Raider Football Team demonstrated that, with a great deal of hard work, dedication to the task at hand and to each other, and a strong sense of commitment, you can realize your dreams and make them come true.

The Richmond Raider Football Team successfully defended their 1997 class 4-A title with an impressive 16-0 undefeated season. The Raider football team capped off this perfect season with a win over Garner High School this past December at the championship game held at Kenan Stadium in Chapel Hill, North Carolina.

Led by four Associated Press All-State Players, the Raiders realized their dream through a great deal of hard-fought success. Their willingness to dig deep within themselves to find the extra energy needed to produce a championship is a true testament to the unwavering loyalty that each player has for the team. The unselfish attitude of the Richmond Raiders is certainly a good example of what can be accomplished when people work together for a common goal.

Senior and All-State team member Michael Waddell, deserves special congratulations for his state and national records last season by returning seven punts or kickoffs for touchdowns. Waddell is joint on the All-State team by Brian Nelson, Jeremy Barnes and Marcus Ellerbe. The senior members of this team have the distinction of never having lost a high school football game.

Mr. Speaker, I would like to congratulate head coach Daryl Barnes, his assistant coaches and the 1998 North Carolina State 4-A Champions, the Richmond Senior High School Raiders. I would urge all of my colleagues to join me in paying special tribute to an outstanding team.

#### TRIBUTE TO HENRY B. DAWSON

### HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 9, 1999*

Mr. SMITH of Michigan. Mr. Speaker, I rise today to honor Henry B. Dawson, a proud native of Battle Creek, Michigan.

Henry will be retiring from the Defense Information Systems Agency after sixteen years of government service, the last four of which he spent away from his home and family. Henry