

**NEW YORK
CITY BAR**

**COMMITTEE ON ESTATE AND
GIFT TAXATION**

January 26, 2007

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Mr. Russell W. Sullivan
Majority Staff Director
Senate Committee on Finance
219 Dirksen Senate Office Building
Washington, DC 20510-6200

Re: Technical Corrections to the Pension Protection Act

Dear Russ:

On behalf of the Estate and Gift Tax Committee of the New York City Bar Association, I would again like to thank you for meeting with us in Manhattan on December 19, 2006.

As a number of us mentioned at that meeting, we would be pleased to assist in any way with respect to the points raised in our letter dated December 12, 2006 requesting technical corrections to certain provisions of the Pension Protection Act of 2006 relating to charitable gifts of fractional interests in tangible personal property. (A copy of this letter is enclosed for your reference.)

As we noted in our letter, we firmly believe that the potential "mismatch" that the Act creates between (i) the value of the property transferred for gross estate (or gift tax) purposes, and (ii) the amount of the estate tax (or gift tax) charitable deduction for that same item, unnecessarily shuts down an important avenue of charitable giving that many publicly-supported museums legitimately use to obtain a "foot in the door" for important artistic works. Our discussions with our clients have confirmed our worst fears in this regard. If you wish, we can put you in touch with museum curators who can further describe the problems faced under current law.

We would be delighted to assist in crafting new legislation that will prevent potential abuses in this area of charitable giving, while preserving "legitimate" fractional interest gifts where the donee charity rigorously enforces the terms of the gift agreement. As discussed at the December 19th meeting, one possible solution would

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be to condition a fair market value charitable deduction for estate and gift tax purposes upon the donee's certification under penalty of perjury that the fractional interest gift has been made in accordance with the terms of the gift agreement. The donee's certification would then have to be attached to the donor's tax return as a further condition for claiming a fair market value charitable deduction. This should achieve Congress's objective of preventing potential abuses, while preserving fractional interest gifts as a vital avenue of charitable giving.

We very much look forward to your response. Please feel free to contact either myself or Kevin Matz from our Committee (e-mail: kmatz@whitecase.com; phone: 212-819-8402) if you would like to discuss this further.

Sincerely,



Ronni G. Davidowitz, Chair
Estate and Gift Taxation Committee