



## JOINT COMMITTEE ON TAXATION

December 6, 2007

JCX-110-07

### **TECHNICAL EXPLANATION OF H.R. 4118, RELATING TO THE TAXATION OF PAYMENTS MADE TO THE VICTIMS OF THE TRAGIC EVENT AT VIRGINIA POLYTECHNIC INSTITUTE & STATE UNIVERSITY, AS PASSED BY THE HOUSE OF REPRESENTATIVES ON DECEMBER 4, 2007<sup>1</sup>**

#### **A. Exclusion from Income of Payments from the Hokie Spirit Memorial Fund (sec. 1 of the bill)**

##### **Present Law**

Following the shooting event at Virginia Polytechnic Institute and State University (“Virginia Tech University”) on April 16, 2007, a payment program for victims and survivors of the event was established. Under the program, survivors of the murder victims and surviving victims of the event are eligible to receive cash payments from the university. In lieu of receipt of a cash payment, claimants under the program may instead donate their payments to a section 501(c)(3) organization for the purpose of funding scholarships at the university.

Under section 61 of the Code, gross income includes all income from whatever source derived. The Code includes a number of exceptions from this rule. These include exceptions for amounts received by gift (section 102), amounts of any damages received on account of personal physical injuries (section 104(a)(2)), and amounts received as qualified disaster relief payments (section 139). There is no specific exclusion from gross income for amounts received pursuant to the Virginia Tech University program described above.

---

<sup>1</sup> This document, prepared by the staff of the Joint Committee on Taxation, provides a technical explanation of H.R. 4118, as passed by the House of Representatives on December 4, 2007. This document may be cited as follows: Joint Committee on Taxation, *Technical Explanation of H.R. 4118, Relating to the Taxation of Payments Made to the Victims of the Tragic Event at Virginia Polytechnic Institute & State University, as Passed by the House of Representatives on December 4, 2007* (JCX-110-07), December 6, 2007. This document can also be found on the web at [www.house.gov/jct](http://www.house.gov/jct). All section references are to the Internal Revenue Code of 1986, as amended (the “Code”).

### **Explanation of Provision**

The provision excludes from gross income specified amounts that an individual receives from Virginia Tech University under the program described above. Under the bill, the exclusion applies to any amount received from Virginia Tech University out of amounts transferred from the Hokie Spirit Memorial Fund established by the Virginia Tech Foundation, an organization organized and operated as described in section 501(c)(3), if such amount is paid on account of the tragic event on April 16, 2007, at such university.

### **Effective Date**

The provision is effective on the date of enactment.

## **B. Increase in Penalty for Failure to File Partnership Returns (sec. 2 of the bill)**

### **Present Law**

A partnership generally is treated as a pass-through entity. Income earned by a partnership, whether distributed or not, is taxed to the partners. Distributions from the partnership generally are tax-free. The items of income, gain, loss, deduction or credit of a partnership generally are taken into account by a partner as allocated under the terms of the partnership agreement. If the agreement does not provide for an allocation, or the agreed allocation does not have substantial economic effect, then the items are to be allocated in accordance with the partners' interests in the partnership. To prevent double taxation of these items, a partner's basis in its interest is increased by its share of partnership income (including tax-exempt income), and is decreased by its share of any losses (including nondeductible losses).

Under present law, a partnership is required to file a tax return for each taxable year. The partnership's tax return is required to include the names and addresses of the individuals who would be entitled to share in the taxable income if distributed and the amount of the distributive share of each individual. In addition to applicable criminal penalties, present law imposes a civil penalty for the failure to timely file a partnership return. The penalty is \$50 per partner for each month (or fraction of a month) that the failure continues, up to a maximum of five months.

### **Explanation of Provision**

The provision increases the present-law failure to file penalty for partnership returns by \$1 per month.

### **Effective Date**

The provision is effective for partnership returns required to be filed for a taxable year beginning in 2008.