

Federal District Court Strikes Down Some Section 527 Reporting

September 2002

On August 22, 2002, the senior United States District Judge for the U.S. District Court for the Southern District of Alabama struck down parts of the reporting requirements of section 527 political organizations and enjoined the IRS from enforcing the requirements. *Nat'l Fed'n of Republican Assemblies v. United States*, 2002 WL 2008245 (S.D. Ala. Aug. 27, 2002). In his opinion, Judge Richard W. Vollmer, Jr. declared the disclosures required under section 527(j) of the Internal Revenue Code, which refers to periodic reporting such as on Form 8872, to be unconstitutional to the extent that the statute required the disclosure of contributions and expenditures in connection with state and/or local electoral advocacy and disclosure of expenditures in connection with federal electoral advocacy.

The judge, citing *Buckley v. Valeo*, stated that the government failed to prove the existence of actual or perceived corruption in connection with independent expenditures, which are the only two compelling interests open to the government in First Amendment cases involving political speech, and, therefore, the reporting requirements for independent expenditures could not be supported. He also ruled that section 527(j) violated the equal protection component of the Fifth Amendment because it treated political organizations differently from other tax-exempt organizations without any necessary critical differentiating characteristics. Finally, Judge Vollmer held that, with respect to state and local electoral advocacy, Congress did not exercise its taxing power when enacting section 527(j) and, as a result, the section violated the Tenth Amendment.

On September 17, 2002, Judge Vollmer amended his decision to limit the corresponding injunction to the plaintiffs in the case.

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