

The New IRC § 527 Law

November 8, 2002

Changes to IRS Reporting Requirements for PACs

On November 2, 2002, President Bush signed Public Law No. 107-276 (formerly H.R. 5596), which greatly alters the reporting requirements of many political organizations that are exempt from federal income tax under Section 527 of the Internal Revenue Code.

Public Law No. 107-276 amends the laws that Congress passed in 2000 and reduces reporting by political parties and PACs, particularly state trade association and corporate PACs. Periodic reporting of contributions and expenditures on Form 8872 and annual reporting of supplemental information on Form 990 are no longer required for most PACs. The details are discussed below.

No More Form 8872 For Most State and Local PACs

- PACs registered with the FEC have never been required to file IRS Form 8872. However, most other PACs were previously required to do so. The new law now exempts "qualified State or local political organizations" from the periodic reporting of contributions and expenditures on Form 8872. Sec. 2(a). This exemption is retroactive to July 1, 2000.

A qualified state or local political organization is defined as a political organization that (i) focuses all of its exempt function (*i.e.*, political) activity on state and/or local offices and (ii) is required under state law to report the type of information about contributions and expenditures that it would have to report to the IRS, provided, further, that the political organization makes its reports available for public inspection per IRS rules and the state agency makes the reports filed by the organization available to the public. Sec. 2(b). A qualified political organization may claim the reporting exemption even if the applicable state disclosure law does not exactly replicate the IRS' reporting requirements. For example, a political organization may still qualify if the state's minimum threshold for reporting contributions or expenditures is within \$300 of the IRS requirement. Similarly, a state law that does not require the reporting of the employer or occupation of contributors or recipients of expenditures, the date of contributions or expenditures, or the purpose of expenditures will not disqualify a political organization from this reporting exemption.*Id.*

- A political organization will not qualify for the reporting exemption if a federal candidate or officeholder (i) "controls or materially participates in the direction of the organization;" (ii) solicits contributions to the organization; or (iii) directs, in whole or in part, disbursements by the organization.

Id.

No More Form 990 for Federal PACs and Small State PACs

- Under the new amendments, PACs registered with the Federal Election Commission are no longer required to file IRS Form 990. Sec. 3(c). In addition, "qualified State and local political organizations" are not required to file Form 990 if their taxable-year gross receipts are \$100,000 or less. *Id.* This amendment also is retroactive to July 1, 2000.

Form 1120 – POL

- Form 1120-POL, the annual tax return, must be filed only if a political organization has taxable income. Sec. 3(a). Prior law required a return from PACs with gross receipts—whether taxable or not—of \$25,000 or more.
- PACs are no longer required to make Form 1120-POL available for public inspection. *Id.*

Miscellaneous Changes

- State PACs must amend Form 8871 within 30 days of any material change in the information contained therein. Sec. 6(g). Any material changes existing at the time of or after the enactment of this new law must be noted in an amendment to Form 8871 within 30 days after the material change or within 45 days after the enactment of the new law, whichever is later.
- Political organizations exempt from filing Forms 8872 and 990 must indicate this exemption on their Form 8871. Sec. 6(f). This requirement applies to Forms 8871 that are due more than 30 days after the enactment of the new law.
- Non-exempt state PACs that expect to receive contributions or make expenditures of more than \$50,000 during the year must file Form 8872 electronically beginning with reports due on or after June 30, 2003. Sec. 6(e).
- State PACs need only file Form 8871 in electronic form, effective July 1, 2000. Sec. (6)(c).
- Forms 8872 must include the date and purpose of each disbursement and the date of each contribution. Sec. 6(e).
- On or after June 30, 2003, the IRS must make Forms 8872 available to the public within 48 hours of filing. The IRS must also make the data contained in these forms searchable electronically by the public. *Id.*

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