In general, corporations are required to make quarterly estimated tax payments of their income tax liability (section 6655). For a corporation whose taxable year is a calendar year, these estimated tax payments must be made by April 15, June 15, September 15, and December 15.

**HOUSE BILL**

No provision.

**SENATE AMENDMENT**

With respect to corporate estimated tax payments due on September 17, 2001, 100 percent is required to be paid by September 17, 2001, and 70 percent is required to be paid by October 1, 2001. With respect to corporate estimated tax payments due on September 15, 2004, 80 percent is required to be paid by September 15, 2004, and 20 percent is required to be paid by October 1, 2004.

With respect to corporate estimated tax payments due in July, August, or September 2011, the payment must be 170 percent of the amount otherwise required to be paid under the corporate estimated tax rules.

**Effective date.**—The provision is effective on the date of enactment.

**CONFERENCE AGREEMENT**

The conference agreement follows the Senate amendment with respect to corporate estimated tax payments due on September 15, 2004. With respect to corporate estimated tax payments due on September 17, 2001, 100 percent is not due until October 1, 2001. The conference agreement does not include the provision affecting corporate estimated tax payments due in 2011.

**B. AUTHORITY TO POSTPONE CERTAIN TAX-RELATED DEADLINES BY REASON OF PRESIDENTIALLY DECLARED DISASTER (SEC. 802 OF THE SENATE AMENDMENT AND SEC. 7508A OF THE CODE)**

**PRESENT LAW**

The Secretary of the Treasury may specify that certain deadlines are postponed for a period of up to 90 days in the case of a taxpayer determined to be affected by a Presidentially declared disaster.

The deadlines that may be postponed are the same as are postponed by reason of service in a combat zone. If the Secretary extends the period of time for filing income tax returns and for paying income tax, the Secretary must abate related interest for that same period of time.

**HOUSE BILL**

No provision.

**SENATE AMENDMENT**

The Senate amendment directs the Secretary to create in the IRS a Permanent Disaster Response Team, which, in coordination with the Federal Emergency Management Agency, is to assist taxpayers in clarifying and resolving tax matters associated with a Presidentially declared disaster. One of the duties of the Disaster Response Team is to postpone certain tax-related deadlines for up to 120 days in appropriate cases for taxpayers determined to be affected by a Presidentially declared disaster.

It is anticipated that the Disaster Response Team would be staffed by IRS employees with relevant knowledge and experience. It is anticipated that the Disaster Response Team would staff a toll-free number dedicated to responding to taxpayers affected by a Presidentially declared disaster and provide relevant information via the IRS website.

**Effective date.**—The provision is effective on the date of enactment.

**CONFERENCE AGREEMENT**

The conference agreement expands the period of time with respect to which the Secretary may postpone certain deadlines from 90 days to 120 days. The conference agreement does not include the provision of the Senate amendment that provides for a Permanent Disaster Response Team.

**C. INCOME TAX TREATMENT OF CERTAIN RESTITUTION PAYMENTS TO HOLOCAUST VICTIMS (SEC. 803 OF THE SENATE AMENDMENT)**

**PRESENT LAW**

Under the Code, gross income means “income from whatever source derived” except for certain items specifically exempt or excluded by statute (sec. 61). There is no explicit statutory exclusion from gross income provided for amounts received by Holocaust victims or their heirs.

**HOUSE BILL**

No provision.

**SENATE AMENDMENT**

The Senate amendment provides that excluded restitution payments made to an eligible individual (or the individual’s heirs or estate) are: (1) excluded from gross income; and (2) not taken into account for any provision of the Code that takes into account excludable gross income in computing adjusted gross income (e.g., taxation of Social Security benefits).

The basis of any property received by an eligible individual (or the individual’s heirs or estate) that is excluded under this provision is the fair market value of such property at the time of receipt by the eligible individual (or the individual’s heirs or estate).

The Senate amendment provides that any excludible restitution payment is disregarded in determining eligibility for, and the amount of benefits and services to be provided under, any Federal or federally assisted program which provides benefit or service based, in whole or in part, on need. Under the Senate amendment, no officer, agency, or instrumentality of any government may attempt to recover the value of excessive benefits or services provided under such a program before January 1, 2000, by reason of failure to take account of excludable restitution payments received before that date. Similarly, the Senate amendment requires a good faith effort to notify any eligible individual who may have been denied such benefits or services of their potential eligibility for such benefits or services. The Senate amendment also provides coordination between this bill and Public Law 103-286, which also disregarded certain restitution payments in determining eligibility for, and the amount of certain needs-based benefits and services.

Eligible restitution payments are any payment or distribution made to an eligible individual (or the individual’s heirs or estate) which: (1) is payable by reason of the individual’s status as an eligible individual (including any amount payable by any foreign country, the United States, or any foreign or domestic entity or fund established by any such country or entity, any amount payable as a result of a final resolution of legal action, and any amount payable under a law providing for payments or restitution of property); (2) constitutes the direct or indirect return of, or compensation or reparation for, assets stolen or hidden, or otherwise lost to, the individual before, during, or immediately after World War II by reason of the individual’s status as an eligible individual (including any proceeds of insurance under policies issued on eligible individuals by European insurance companies immediately before and during World War II); or (3) interest payable as part of any payment or distribution described in (1) or (2), above. An eligible individual is a person who was persecuted for racial or religious reasons by Nazi Germany, or any other Axis regime, or any other Nazi-controlled or Nazi-allied country.
Effective date.—The provision is effective for any amounts received on or after January 1, 2000. No inference is intended with respect to the income tax treatment of any amounts received before January 1, 2000.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment, with three changes. First, the definition of eligible individuals is expanded to also include individuals persecuted on the basis of political opinion or religious belief as well as individuals persecuted on the basis of gender, sexual orientation. Second, interest earned by enumerated escrow or settlement funds are also excluded from tax. Third, the provision applies to an individual who is more than 50 but not more than 60; $2,290 in the case of an individual who is more than 60 but not more than 70; and $2,880 in the case of an individual who is more than 70. These dollar limits are indexed for inflation.

S E N A T E A M E N D M E N T

The Senate amendment increases the deduction for health insurance expenses (and qualified long-term care insurance expenses) of self-employed individuals to 100 percent of the qualified expenses. The Senate amendment also provides that the deduction is not available for any month in which the self-employed individual participates in (rather than is eligible for) a subsidized health plan maintained by an employer of the individual or his or her spouse.

The provision is effective for taxable years beginning after December 31, 2001.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

G. ENHANCED DEDUCTION FOR CHARITABLE CONTRIBUTION OF LITERARY, MUSICAL, AND ARTISTIC COMPOSITIONS (SEC. 170 OF THE SENATE AMENDMENT AND SEC. 170 OF THE CODE)

PRESENT LAW

In the case of a charitable contribution of inventory or other ordinary-income or short-term capital gain property, the amount of the deduction is limited to the taxpayer’s basis in the property. In the case of a charitable contribution of appreciated property, the deduction is limited to the taxpay-er’s basis in such property if the use by the recipient charitable organization is unrelated to the organization’s purpose. In cases involving contributions to a private foundation (other than certain private operating foundations), the amount of the deduction is limited to the taxpay-er’s basis in the property.

Under present law, charitable contributions of literary, musical, and artistic compositions are considered ordinary income property and a taxpayer’s deduction of such property is limited to the taxpayer’s basis (typically, cost) in the property. To be eligible for the deduction, the contribution must be of an undivided portion of the donor’s entire interest in the property. For purposes of the charitable income tax deduction, the copyright and the work in which the copyright is embodied are not treated as separate property interests. Accordingly, if a donor owns a work of art and the copyright to the work of art, a gift of the artwork without the copyright or the copyright without the artwork will constitute a gift of a “partial interest” and will not qualify for the income tax charitable deduction.

HOUSE BILL

No provision.

S E N A T E A M E N D M E N T

The Senate amendment provision is as follows: $220 in the case of an individual who is over 40 but not more than 50; $340 in the case of an individual who is 40 or over but not more than 50; $430 in the case of an individual who is 50 or over but not more than 60; $2,290 in the case of an individual who is more than 60 but not more than 70; and $2,880 in the case of an individual who is more than 70. These dollar limits are indexed for inflation.

H 2 8 0 9

May 25, 2001

CONGRESSIONAL RECORD—HOUSE
property contributed at the time of the con-
tribution. The Senate amendment defines a
qualified artistic charitable contribution to
mean a charitable contribution of any liter-
ary, musical, dramatic, or scholastic work, or
position, or similar property, or the copy-
right thereon (or both). The tangible prop-
erty and the copyright on such property are
treated as property in the possession of the
recipient for purposes of the “partial interest” rule.
Contributions of letters, memoranda, or
similar property that are written, prepared,
or produced by or for an individual in his or
her capacity as an officer or employee of any
person (including a government agency or in-
strumentality) do not qualify for fair market
value. A contribution in this form is perso-
nally entire.

Under the Senate amendment, the increase in
the deduction that results from the provi-
sion cannot exceed the amount of adjusted
gross income of the donor for the taxable
year from the sale or use of property created
by the donor that is of the same nature as the
donated property, and from teaching, lec-
turing, performing, or similar activities with
respect to such property. The fair market
deduction value cannot be carried over and
deducted in more than one year.

A contribution is required to meet several
requirements in order to qualify for the fair
market value deduction. First, the contrib-
uted property must have been created by the
personal efforts of the donor at least 18
months prior to the date of contribution.
Second, the donor must obtain a qualified
appraisal of the contributed property, a copy
of which must be attached to the donor’s in-
come tax return for the taxable year in
which the contribution is made. Third, the
contribution must be made to a public char-
ity or to certain limited types of private
foundations. Finally, the use of donated
property by the recipient organization must
be related to the organization’s charitable
purpose or function, and the donor must re-
ceive a written statement from the organiza-
tion verifying such use.

Effective date.

The deduction for qualified artistic charita-
table contributions applies to contributions
made after the date of enactment.

CONFERECE AGREEMENT

The conference agreement does not include the
Senate provision.

H. ESTATE TAX RECATURE FROM CASH RENTS OF SPECIALLY-VALUED PROPERTY (SEC. 809 OF THE SENATE AMENDMENT)

PRESENT LAW

Under the special-use valuation rules of section
2032A, the executor may elect to value certain “qualified real property” used in
farming or another qualifying trade or
business at its current use rather than its
highest and best use. If, after the special-use
valuation election is made, the heir who ac-
quired the real property ceases to use it in
its qualified use within 10 years (15 years for
individuals dying before 1982) of the deced-
ent’s death, an additional estate tax is im-
posable in order to “recapture” the benefit of
the special-use valuation. Section 2032A is ef-
fective for estates of decedents dying after
December 31, 1976.

Prior law under section 2032A. Under prior law, some courts had held that
the cash rental of property for which special-use valuation was claimed was not a qualified
use under the rules, because the heirs no
longer bore the financial risk of working the
property, thus triggering the additional es-
tate tax.\(^{32}\)

With respect to a decedent’s surviving
spouse, a special rule provides that the sur-
viving spouse will not be treated as failing to
use the property in a qualified use solely be-
cause the proceeds of the interest in the prop-
erty is paid to a member of the spouse’s family on a net cash basis. Members of an individual’s family in-
clude: (1) the individual’s spouse, (2) the indi-
vidual’s tax-exempt institutional descendants of the individual, (3) the individual’s parents, and (4) the
spouses of any such lineal descendants.

Section 934(c) of the Tax Reform Act of
1997 expanded the class of heirs eligible to
lease property for which special-use valu-
ation was claimed without causing the quali-
ded use valuation to be barred on the pur-
pose of imposition of the additional estate
tax. Section 2032A(c)(7)(E) provides that the
net cash lease of property (for which special-
use valuation was claimed) by a lineal de-
scentand of the decedent to a member of such
lineal descendant’s family does not cause the
qualified use of the property to cease for purposes of imposition of the addi-
tional estate tax. The amendment made
under the Tax Reform Act of 1997 applies to
leases entered into after December 31, 1997.

In Technical Advice Memorandum 9843001,
the IRS determined that the retroactive ef-
factive date in the changes made by the Tax
REFORM AND REINVESTMENT ACT OF 1993 (the “waiver
of the period of limitations otherwise ap-
plicable on a taxpayer’s claim. Accordingly,
the IRS determined that a taxpayer’s claim for refund of qualified use tax for the year
of the cessation of a qualified use was barred
under the generally applicable statute of
limitations on refund claims.

No provision.

SENATE AMENDMENT

The Senate amendment provides that, on
the date of enactment or at any time within
one year after the date of enactment, a claim
for refund or credit of any overpayment of
tax resulting from the application of net
cash lease provisions for spouses and lineal
descendants (sec. 2032A(c)(7)(E)) is barred by
operation of law or rule of law, then the re-
fund or credit of such overpayment shall,
nonetheless, be allowed if a claim therefore
is filed before the date that is one year after
the date of enactment.

The provision is effective for refund claims filed prior to the date that is
one year after the date of enactment.

CONFERECE AGREEMENT

The conference agreement follows the Sen-
ate amendment.

I. EXTENSION OF RESEARCH AND EXPERIMEN-
TATION TAX CREDIT AND NEW VACCINE RE-
SEARCH CREDIT (SEC. 810 AND 811 OF THE SENATE
AMENDMENT) (SEC. 41 AND NEW SEC. 45G OF THE
CODE)

PRESENT LAW

Section 41 provides for a research tax cred-
itet equal to 20 percent of the amount by
which a taxpayer’s qualified research expenses exceed its
base amount for that year. The research tax
credit generally applies to amounts paid or
incurred before July 1, 2004.

Except for certain university basic re-
search payments made by corporations, the
research tax credit applies only to the extent
that the qualified research expenses exceed
the standard deduction for the current taxable year ex-
ceed its base amount. The base amount for the current year generally is computed by
multiplying the taxpayer’s “fixed-base per-
centage” by the average amount of the tax-
payer’s qualified research expenses in the four
preceding years. If a taxpayer both incurred qualified research expenditures and had gross receipts
during each of at least three years from 1981
through 1988, then its “fixed-base per-
centage” is the ratio that its total qualified re-
search expenditures for the 1984-1988 period bears to its total gross receipts for that
time, or to the average gross receipts for the
four preceding years. All other taxpayers (so-called “start-up firms”) are assigned a
fixed-base percentage of 3.0 percent.

Taxpayers are allowed to elect an alter-
native incremental research credit regime. If
a taxpayer elects to be subject to this alter-
native regime, the taxpayer is assigned a
three-tiered fixed-base percentage (that is
lower than the fixed-base percentage other-
wise applicable under present law) and the
credit rate likewise is alternative credit regi-
e. A credit rate of 3.65 percent applies to the extent that a
taxpayer’s current-year research expenses ex-
cede a base amount computed by using a
fixed-base percentage of 1.0 percent (i.e., the
base amount equals 1.0 percent of the tax-
payer’s average gross receipts for the four
preceding years) but do not exceed a base amount computed by using a fixed-base
percentage of 1.5 percent. A credit rate of 3.2
percent applies to the extent that a tax-
payer’s current-year research expenses ex-
cede a base amount computed by using a
fixed-base percentage of 1.5 percent but do not
exceed a base amount computed by using a
fixed-base percentage of 2.0 percent. A credit
rate of 3.75 percent applies to the extent that
a taxpayer’s current-year research expenses exceed a base amount computed by using
a fixed-base percentage of 2.0 percent.

An election to be subject to this alternative incremental credit regime may be made for
any taxable year beginning after June 30, 1996,
and such an election applies to that taxable
year and all subsequent years (in the event
that the credit subsequently is admin-
istered by Congress) unless revoked with the
consent of the Secretary of the Treasury.

No provision.

SENATE AMENDMENT

The Senate amendment would make the
research credit permanent.

The Senate amendment also would in-
crease the credit rates under the alternative
incremental credit regime, a credit rate of
3.65 percent to 4.0 percent, from 3.2 percent to 4.0 percent, and from 3.75 percent to 5.0 percent.

In addition, the Senate amendment would
provide a new research credit with respect to
certain qualified vaccine and microbiode-
vice research. The amendment would provide a
credit equal to 30 percent of qualifying vac-
cine research expenses undertaken to de-
volve vaccines and microbicides for malaria,
tuberculosis, HIV, or any infectious disease
isolated through the World Health Organiza-
tion, caused over one
million human deaths annually. Quali-

153 Qualifying vaccine and microbicides would not include expenses for research in-

32See Martin v. Commissioner, 783 F.2d 81 (7th Cir. 1986) (cash lease to unrelated party not a qualified use for pur-
pose of section 2032A); 888 F.2d 681 (8th Cir. 1989) (cash lease to family-

152 See Martin v. Commissioner, 783 F.2d 81 (7th Cir. 1986) (cash lease to unrelated party not qualified use for pur-
pose of section 2032A).
in the case of expenses for human clinical testing. No credit may be claimed for preclinical expenses unless a research plan has been filed with the Secretary of the Treasury.

Effective date.—The provision generally would be effective on the date of enactment. The increase in credit rates under the alternative minimum tax and the credit for incurred but not paid research expenses for qualifying vaccine research expenses would be effective for taxable years ending after the date of enactment.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment.

J. ACCELERATION OF ROUND II EMPowerMENT ZONE WAGE CREDIT (SEC. 812 OF THE SENATE AMENDMENT AND SEC. 1396 OF THE CODE)

PRESENT LAW

The Omnibus Budget Reconciliation Act of 1993 (‘‘OBRA 1993’’) authorized the designation of nine empowerment zones (‘‘Round I empowerment zones’’) to provide tax incentives for businesses to locate within targeted areas designated by the Secretaries of Housing and Urban Development and Agriculture. The Taxpayer Relief Act of 1997 (‘‘1997 Act’’) authorized the designation of an additional Round I urban empowerment zones. Among other incentives, Round I empowerment zones qualify for a 20-percent wage credit for the first $15,000 of wages paid to a zone resident who works in the empowerment zone.

The 1997 Act also authorized the designation of 20 additional empowerment zones (‘‘Round II empowerment zones’’), of which 15 are located in urban areas and five are located in rural areas. The 1997 Act did not authorize a wage credit for businesses located in the Round II empowerment zones. The Community Renewal Tax Relief Act of 2000, however, extended the 20-percent wage credit to Round II empowerment zones for wages paid or incurred after December 31, 2001.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment accelerates the availability of the wage credit for Round II empowerment zones to the earlier of July 1, 2001, or the date of enactment of the bill.

Effective date.—For wages paid or incurred after the earlier of July 1, 2001 or date of enactment.

CONFERENCE AGREEMENT

The conference agreement does not contain the Senate amendment.

K. TREATMENT OF CERTAIN HOSPITAL SUPPORT ORGANIZATIONS IN DETERMINING ACQUISITION INDENITIEDNESS (SEC. 813 OF THE SENATE AMENDMENT AND SEC. 514 OF THE CODE)

PRESENT LAW

In general, income of a tax-exempt organization that is produced by debt-financed properties is unrelated business income in proportion to the acquisition indebtedness on the income-producing property. Acquisition indebtedness generally means the amount of unpaid indebtedness incurred by an organization to acquire or improve the property and indebtedness that will not have been incurred but for the acquisition or improvement of the property. However, under an exception, acquisition indebtedness does not include indebtedness incurred by certain qualified organizations to acquire or improve real property. Qualified organizations include pension trusts, educational institutions, and title-holding companies.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment expands the exception to indebtedness incurred by the qualified hospital support organizations in the case of a qualified hospital support organization. The exception applies to eligible indebtedness (or the qualified refinancing thereof) of the qualified hospital support organization. A qualified hospital support organization is a supporting organization (under Code section 170(b)(1)(A)(iv)) that is an academic health center (under Code section 118(d)(4)(B)). The assets of the supporting organization must also meet certain requirements. First, more than half of the value of its assets at any time since its organization (1) must have been acquired, directly or indirectly, by gift or devise, and (2) must consist of real property. In addition, the fair market value of the organization’s real estate acquired by gift or devise must exceed 10 percent of the fair market value of all investment assets held by the organization immediately prior to the time that the eligible indebtedness is incurred. These requirements must be met each time eligible indebtedness is incurred or a qualified refinancing thereof occurs.

Eligible indebtedness means indebtedness secured by real property acquired by gift or devise, the proceeds of which are used exclusively to acquire a leasehold interest in or to improve the property. A qualified refinancing of eligible indebtedness occurs if the refinancing decreases the amount of refinanced eligible indebtedness immediately before the refinancing.

Effective date.—The Senate amendment applies to indebtedness incurred after December 31, 2003.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

L. MODIFY RULES GOVERNING TAX-EXEMPT BONDS FOR CERTAIN PRIVATE WATER FACILITIES (SEC. 814 OF THE SENATE AMENDMENT AND SEC. 142 OF THE CODE)

PRESENT LAW

Interest on State or local government bonds issued to finance private businesses that are acting as conduit borrowers for private businesses is taxable unless a specific exception is included in the Code. One such exemption allows tax-exempt bonds to be issued to finance privately owned and operated facilities for the furnishing of water. Such facilities must be operated in a manner similar to municipal water facilities and are subject to the same rates and security requirements. Federal and State employment tax reporting provisions do not apply to the employment of the borrowers for private businesses. For these purposes, the tax-exempt interest on the proceeds is not a preference item for the alternative minimum tax.

Other provisions include: (1) the prohibition on disclosure of returns or return information by State officials and employees (sec. 6103a(a)(2)); (2) the Federal on-site inspections of tax-exempt organizations for unrelated business income (sec. 6103a(a)(10)); and (3) the requirement that the Secretary establish safeguards regarding the information obtained from the IRS (sec. 6103(p)(4)).

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment provides that private activity bonds for facilities to remove arsenic levels in water (as opposed to such bonds to finance private water treatment facilities generally) are not subject to the State volume limits and the interest on the bonds is not a preference item for the alternative minimum tax. A bond is treated as for arsenic remediation if at least 95 percent of the proceeds are used for facilities to comply with the 10 parts per billion standard established by the Agency for Toxic Substances and Disease Registry. The provision does not affect governmental bonds for municipal water facilities.

Effective date.—The provision is effective for bonds issued after the date of enactment.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment.

M. COMBINED EMPLOYMENT TAX REPORTING (SEC. 816 OF THE SENATE AMENDMENT AND SEC. 6103(d)(5) OF THE CODE)

PRESENT LAW

The Internal Revenue Code prohibits disclosure of tax returns and return information, except to the extent specifically authorized by the Internal Revenue Code (sec. 6103). Unauthorized disclosure is a felony punishable by a fine not to exceed $5,000 or imprisonment of not more than five years, or both (sec. 7213). An action for civil damages also may be brought for disclosure (sec. 7431). No tax information may be furnished by the Internal Revenue Service (‘‘IRS’’) to another agency unless the agency establishes safeguards satisfactory to the IRS for safeguarding the tax information it receives (sec. 6103(p)).

The Taxpayer Relief Act of 1997 authorized a demonstration project to assess the feasibility and desirability of expanding combined reporting. The demonstration project was: (1) limited to State of Montana, (2) limited to employment taxes (taxpayer identity (name, address, taxpayer identifying number) and the signature of the taxpayer) and (4) limited to a period of five years. After August 3, 2002, the demonstration project will expire.

To implement that demonstration project, the Taxpayer Relief Act of 1997 amended the Code to authorize the IRS to disclose the tax information to the State directly received this information from the taxpayer.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment makes the IRS disclosure authority permanent and expands the authorized recipients to include any State agency, body, or commission, for the purpose of carrying out a combined Federal and State employment tax reporting program. The Code permits the IRS to disclose these common data items to the State and not have it subject to the requirements of the Federal employment tax reporting and penalty provisions. Essentially, the State is allowed to use this information as if the State directly received this information from the taxpayer.

HOUSE BILL

No provision.
Effective date.—The Senate amendment is effective on the date of enactment.

Conference agreement

The conference agreement does not contain the Senate amendment.

N. Reimbursement of State and Local Political Organizations (secs. 901–904 of the Senate Amendment and secs. 527 and 6012 of the Code)

Present law

In general

Under present law, section 527 provides a limited tax-exempt status to “political organizations,” meaning a party, committee, association, foundation, or other organization (whether or not incorporated) organized and operated primarily for the purpose of directly or indirectly accepting contributions or making expenditures (or both) for an “exempt function.” These organizations are generally exempt from Federal income tax on contributions they receive, but are subject to tax on their net investment income and certain other income at the highest corporate income tax rate (“political organization taxable income”). Donors are exempt from gift tax on contributions to such organizations. For purposes of section 527, the term “exempt function” means the function of influencing or attempting to influence, in any manner or by any means, the outcome of an election or appointment of any individual to any Federal, State, or local public office or office in a political organization, or the election of President, Vice-President, or Senator or Representative, whether or not such individual or electors are selected, nominated, elected, or appointed. Thus, by definition, the purpose of a section 527 organization is to accept contributions or make expenditures for political campaign (and similar) activities.

Notice of section 527 organizations

An organization is treated as a section 527 organization unless it has given notice to the Secretary of the Treasury, electronically and in writing, that it is a section 527 organization. The notice is not required (1) of any person required to report as a political committee under the Federal Election Campaign Act of 1971, (2) by organizations that reasonably anticipate that their annual gross receipts will always be less than $25,000, and (3) organizations described in section 501(c). All other organizations, including State and local candidate committees, are required to file the notice.

The notice is required to be transmitted no later than 60 days after the date on which the organization is organized. The notice is required to include the following information: (1) the name and address of the organization and its electronic mailing address, (2) the purpose of the organization, (3) the names and addresses of the organization’s officers, highly compensated employees, contact person, custodian of records, and members of the organization’s Board of Directors, (4) the name and address of, and relationship to, any related entities, and (5) such other information as the Secretary may require.

The notice of status as a section 527 organization is required to be disclosed on the Internet and at the offices of the IRS a list of all organizations that have given notice to the Secretary under section 527 and the name, address, electronic mailing address, custodian of records, and contact person for each such organization. The Secretary is required to make this information available within 5 business days after the Secretary of the Treasury receives a notice from a section 527 organization.

An organization that fails to file the notice is not treated as a section 527 organization and its exempt function income is taken into account in determining taxable income.

Disclosure by political organizations of expenditures and contributors

A political organization that accepts a contribution or makes an expenditure for an exempt function during any calendar year is required to file with the Secretary of the Treasury certain reports. The following reports are required: the case of a general election year in which a regularly scheduled election is held, quarterly reports, a pre-election report, and a post-election general election report. The reports contain receipts for the calendar year, a report covering January 1 to June 30 and July 1 to December 31, or (2) monthly reports for the calendar year, except that, in the case of the months of June through December of any year in which a regularly scheduled general election is held, a pre-general election report, a post-general election report, and a year end report are to be filed.

The reports are required to include the following information: (1) the amount of each expenditure made to a person if the aggregate amount of expenditures to such person during the calendar year equals or exceeds $500 and the name and address of the person (in the case of an individual, including the occupation and name of the employer of the individual); and (2) the name and address (in the case of an individual, including the occupation and name of each individual) of all contributors that contributed an aggregate amount of $200 or more to the organization during the calendar year and the amount of the contribution.

The disclosure requirements do not apply (1) to any person required to report as a political committee under the Federal Election Campaign Act of 1971, (2) by any State or local committee of a political party or political committee of a State or local candidate, (3) to any organization that reasonably anticipates that it will have gross receipts of $25,000 or more for any taxable year, (4) to any organization described in section 501(c), (5) with respect to any expenditure that is an independent expenditure (as defined in section 301 of the Federal Election Campaign Act of 1971).

For purposes of the disclosure requirements, the term “election” means (1) a general, special, primary, or runoff election for a Federal office, (2) a convention or caucus that authorizes a particular person to run for a Federal office, (3) a primary election held for the selection of delegates to a national nominating convention of a political party, or (4) a primary election that authorizes a preference for the nomination of individuals for election to the office of President.

The IRS is required to make available to the public any report filed by a political organization. In addition, the organization is required to make any such report available to the public. Every political organization is required to file a report or provide required information in the report.

Return requirements for section 527 organizations

Under present law, a section 527 organization that has political organization taxable income is required annually to file Form 1120-POL (Return of Organization Exempt From Income Tax for Political Organizations). A penalty is imposed for failure to file or make an information return under the Code, the requirement for exemption from reporting will not be met.

Under the Senate amendment, political organizations described in the preceding paragraph are exempt from the requirement to file an income tax return if such organization does not have political organization taxable income, and no candidate for Federal office or individual holding Federal office or individual the organization or any political committee under the Federal Election Campaign Act of 1971.

The Senate amendment requires the Secretary to waive penalties for failure to file or make an information return under the Code, the requirement for exemption from reporting will not be met.

Effective date

The Senate amendment provides that the political organization taxable income of a political committee of a State or local candidate is exempt from the requirement to provide notice to the Secretary of its formation and purpose.

In addition, the Senate amendment exempts certain political organizations from the requirement to provide notice to the Secretary of its formation and purpose. To be exempt from such reporting requirements under the Senate amendment, (1) the organization must not be an organization already exempt from the reporting requirement under present law, and (2) such organization must not engage in any exempt function activities other than activities for the purpose of influencing or attempting to influence the selection, nomination, election, or appointment of any individual to any State or local public office or office in a State or local political organization, (3) no candidate for Federal office or individual holding Federal office can control or materially participate in the organization, and (4) no contributions to the organization, or direct, in whole or in part, any expenditure made by the organization. Further, during the calendar year, the organization must be required to report under State or local law, and must in fact report, information regarding each separate expenditure and contribution (including information regarding the person who makes such contribution or receives such expenditure) that otherwise would be required, by the agency with which such information is filed, must make the filed information public and available for public inspection. If the minimum amount of a contribution or expenditure that triggers disclosure under State or local law is more than $100 than the minimum amount for disclosure required by the Code, the requirement for exemption from reporting will not be met.

Finally, the Senate amendment gives the Secretary the authority to waive all or any portion of the penalties imposed on an organization for failure to file or make an information return required by the organization’s establishment or the failure to file a report. Such waiver is subject to a showing by the organization that the failure was due to reasonable cause and not to willful neglect.

Conference agreement

The conference agreement does not include the Senate amendment provision.