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Folder Title: 11/02/2002 [H.R. 5596] [771577]

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Collection Code: **SECLOG**

Staff Name:

Document Date:

Correspondent: **TIM SAUNDERS**

Subject/Description: **OVERSIZE ATTACHMENT # 9469 NARA # 9360 BOX 5 FOLDER 4B BILL FILE RECEIVED FROM THE OFFICE OF THE EXECUTIVE CLERK - NOV 02 02 ENROLLED BILL H.R. 5596 - MODIFIED DISCLOSURE REQUIREMENT FOR POLITICAL ORGANIZATIONS**

THE PRESIDENT HAS SEEN
11-2-02

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

'02 OCT 29 PM 10:35

THE DIRECTOR

October 29, 2002

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Bill H.R. 5596 - Modified Disclosure Requirements for Political Organizations
Sponsors - Rep. Brady (R) Texas and 5 cosponsors

Last Day for Action

November 4, 2002 - Monday

Purpose

Amends and exempts State and local political organizations from certain Internal Revenue Code requirements applicable to political organizations.

Agency Recommendations

Office of Management and Budget	Approval
Department of the Treasury	Approval
Department of Labor	No objection (Informally)
Department of the Justice	No comment (Informally)

Discussion

Section 527 of the Internal Revenue Code provides a limited tax-exempt status to "political organizations," defined as a party, committee, association, fund, or other entity organized and operated primarily for the purpose of directly or indirectly accepting contributions or making expenditures for an "exempt function." Exempt functions include influencing or attempting to influence the selection, nomination, election, or appointment of any individual to any Federal, State, or local public office or political organization office, or the election of Presidential or Vice-Presidential electors. Section 527 organizations are generally exempt from taxation on their "exempt function income," i.e., contributions, membership dues, proceeds from political fundraising, and other income related to the exempt functions.

Major provisions of the enrolled bill are described below. Other provisions of the enrolled bill are described in an Attachment.

Exemptions for State and Local Organizations

Initial Notice of Status Exemptions. To be treated as a section 527 organization, an organization is required, no later than 24 hours after the date on which it is established, to file with Treasury, electronically and in writing, an initial notice of status stating the purpose of the organization. The enrolled bill would exempt from the notice of status filing requirements any political organization that is a political committee of a State or local candidate, or a State or local committee of a political party. This provision would take effect as if it were included in P.L. 106-230, enacted on July 1, 2000, which established requirements for section 527 organizations to disclose their political activities. The Treasury Department notes that P.L. 106-230 includes an exemption for certain Federal-level political organizations, and that the failure to exempt State and local political organizations "created considerable confusion."

Disclosure of Expenditures and Contributions. Current law requires political organizations receiving contributions or making expenditures for an exempt function during any calendar year to file with the Secretary certain reports including: (1) the amount of each expenditure made to a person if the aggregate amount of expenditures to that person during the calendar year equals or exceeds $500, and the name and address of the person; and (2) the name and address of all contributors who contributed an aggregate amount of $200 or more to the organization during the calendar year and the amount of the contributions.

The enrolled bill would exempt any organization which is a "qualified State or local political organization" from the contribution and expenditure reporting requirements. The enrolled bill would define the term "qualified State or local political organization" as a political organization: (1) all of the exempt functions of which are solely for the purposes of influencing or attempting to influence the selection, nomination, election, or appointment of individuals to State or local public office or office in a State or a local political organization; (2) which is subject to State law that requires the organization to file a report that includes information regarding each separate expenditure from and contribution to the organization and on the person who makes the contribution or receives the expenditure; and (3) with respect to which the reports are made public by the State and available for inspection by the organization.

Under the enrolled bill, an organization would not be considered a qualified State or local political organization if a candidate for nomination or election to Federal elective public office or an individual who holds such office: (1) controls or materially participates in the direction of the organization; (2) solicits contributions to the organization; or (3) directs, in whole or in part, disbursements by the organization.

Amendments to Tax Return and Disclosure Requirements

Income Tax Return Requirements. Current law requires political organizations which have: (1) political organization taxable income for a taxable year; or (2) gross receipts of $25,000 or more for the taxable year to file an income tax return. The enrolled bill would eliminate the second of these requirements. It would also eliminate a requirement that the Secretary of the Treasury and the political organizations make these income tax returns public.

Annual Information Return Requirements. Current law provides that political organizations that are required to file an income tax return must also file an annual information return stating specifically the items of gross income, receipts, and disbursements. The enrolled bill would require: (1) only political organizations with annual gross receipts of $25,000 or more; and (2) qualified State or local political organizations with annual gross receipts of $100,000 or more to file an annual information return. Organizations exempted from this annual return filing requirement would include: (1) State and local committees of political parties and political committees of State and local candidates; (2) caucuses and associations of State or local officials; (3) authorized committees of candidates for Federal office under the Federal Election Campaign Act; (4) U.S. House and U.S. Senate campaign committees of political party committees; and (5) certain tax-exempt organizations. The enrolled bill would allow Treasury to relieve any organization from the annual information return requirements on a determination by Treasury that the filing is unnecessary for the efficient administration of the tax laws. These provisions of the enrolled bill would take effect as if they were included in Public Law 106-230.

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Required reports with respect to any calendar year on expenditures and contributions would have to be filed electronically by organizations that have, or have reason to expect to have, contributions exceeding $50,000 or expenditures exceeding $50,000 in that calendar year. Penalties imposed for failure to report would be assessed and collected in the same manner as penalties imposed under current law for failure by exempt organizations to file certain information returns.

Database

The enrolled bill would require Treasury to make electronically filed notices of status and reports on expenditures and contributions available to the public on the Internet not later than 48 hours after they have been filed. Treasury would be required to make the entire database of notices and reports searchable by: (1) names, States, zip codes, custodians of records, directors, and general purposes of the organization; (2) entities related to the organizations; (3) contributors to the organizations; (4) employers of such organizations; (5) recipients of expenditures of the organizations; (6) ranges of contributors and expenditures; and (7) time periods of the notices and reports. This database would have to be downloadable. This provision would apply to reports required to be filed on or after June 30, 2003.

Conclusion and Recommendations

In its views letter, Treasury recommends approval of H.R. 5596, but notes that "it is unclear at this time whether the [Internal Revenue Service] will be able to meet all of the mandates imposed by the enrolled bill within the times prescribed. To do so will take a major effort, along with a redirection of scarce resources."

We join the Treasury in recommending approval of H.R. 5596, which passed both the House and the Senate by unanimous consent.

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Mitchell E. Daniels, Jr.
Director

Enclosures

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The enrolled bill would eliminate the requirement that the notice of status be filed in writing. The requirement for filing electronically would remain in effect.

Material Changes to Information in Notice of Status. The enrolled bill would require an organization filing a notice of status to file a new notice whenever there is a material change to information provided in the notice. The new notice would have to be filed no later than 30 days after the material change. An organization failing to file a new notice would no longer be treated as a section 527 organization and its exempt function income would be taken into account in determining taxable income from the date of the material change until a new notice is filed. This provision would be effective for material changes that occur on or after the date of enactment of the enrolled bill. However, if a material change occurs during the 30-day period beginning on the date of enactment, a new notice would not be required to be filed before the later of: (1) 30 days after the date of the material change; or (2) 45 days after the date of enactment.

Notification of Interaction of Reporting Requirements. The enrolled bill would require Treasury, in consultation with the Federal Election Commission, to publicize the effects of the provisions of the enrolled bill and the interaction of the requirements to file a notification or report under section 527 and reports under the Federal Election Campaign Act.

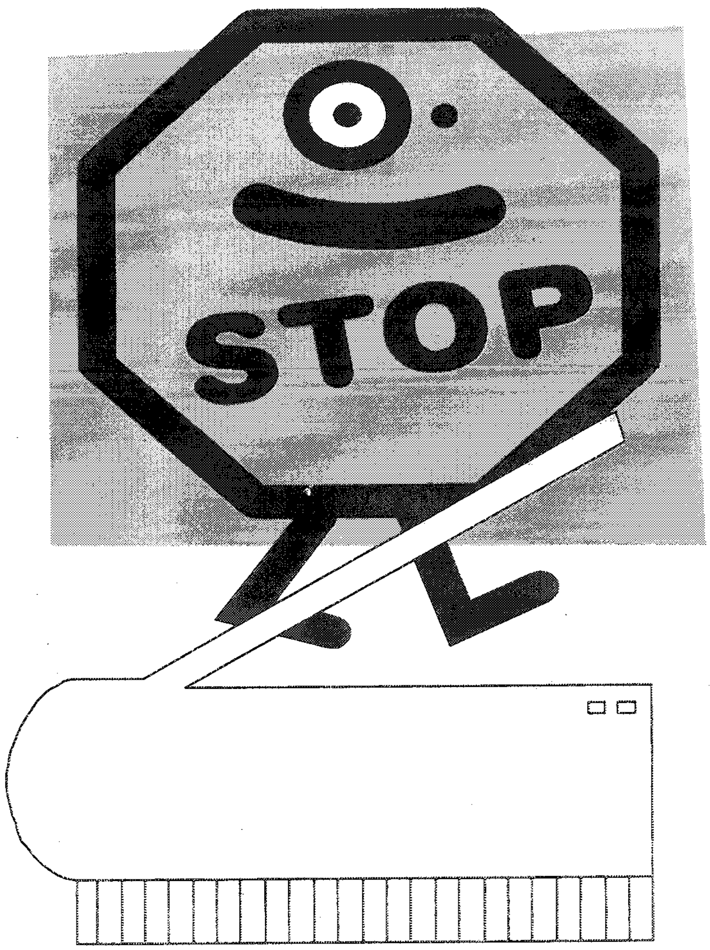
Application of Fraud Penalty. The enrolled bill would provide that any entity required, pursuant to section 527, to furnish any information to the Secretary (or any other person) who willfully furnishes information that he or she knows to be fraudulent or false as to any material matter would be subject to a fine of not more than $10,000 (or $50,000 in the case of a corporation) or imprisonment of not more than one year or both.

Waiver of Tax and Penalties. The enrolled bill would authorize Treasury to waive any tax assessed after June 30, 2000, on an organization for failure to comply with the notification requirements on a showing that the failure was due to a reasonable cause and not willful neglect. Also, the enrolled bill would authorize Treasury to waive any penalties imposed after June 30, 2000, for failure to disclose contributions and expenditures on a showing that the failure was due to a reasonable cause and not willful neglect.

Effect of Amendments on Existing Disclosures. Notices, reports, or returns that were required to be filed with Treasury before the date of enactment of the enrolled bill and that were disclosed by Treasury consistent with the law in effect at the times of disclosure would remain public, even if the retroactive effective dates of certain parts of the enrolled bill mean that a notice or report was not required to have been filed.

ORM

Scanning insert sheet



Remainder of case not scanned

SS/ RM NO. 521802

WHITE HOUSE STAFFING MEMORANDUM

Date: 10-29-02, 11:00 PM ACTION / CONCURRENCE / COMMENT DUE BY: 10-30-02, 1:00 PM

Subject: ENROLLED BILL H.R. 5596, MODIFIED DISCLOSURE REQUIREMENTS FOR POLITICAL ORGANIZATIONS

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☑	☐	HUBBARD	☐	☐
CARD	☑	☐	IRASTORZA	☐	☐
BARTLETT	☑	☐	JOHNSON	☐	☐
BLAKEMAN	☐	☐	LINDSEY	☑	☐
BOLTEN	☑	☐	MARBURGER	☐	☐
BRIDGELAND	☐	☐	MIERS	☐	☐
CALIO	☑	☐	RICE	☐	☐
CONNAUGHTON	☐	☐	RIDGE	☐	☐
DANIELS	☐	☑	ROVE	☑	☐
FLEISCHER	☐	☑	SPELLINGS	☑	☐
GERSON	☐	☑	CLERK	☐	☑
GONZALES	☑	☐	______	☐	☐
HAGIN	☐	☐	______	☐	☐
HAWKINS	☑	☐	______	☐	☐

REMARKS:

PLEASE SEND COMMENTS TO JIM JUKES, EXT. 53458, FAX 56148, NO LATER THAN 1:00 PM WEDNESDAY, 10-30-02, WITH COPY TO STAFF SECRETARY. THANK YOU.

RESPONSE:

Harriet E. Miers
Assistant to the President
and Staff Secretary
Ext. 62702

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

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BLAKEMAN			LINDSEY ok	✓	
BOLTEN N/C	✓		MARBURGER		
BRIDGELAND			MIERS		
CALIO ok	✓		RICE		
CONNAUGHTON			RIDGE		
DANIELS		✓	ROVE N/C	✓	
FLEISCHER		✓	SPELLINGS OK	✓	
GERSON		✓	CLERK		✓
GONZALES	✓				
HAGIN					
HAWKINS	✓				

REMARKS:

PLEASE SEND COMMENTS TO JIM JUKES, EXT. 53458, FAX 56148, NO LATER THAN 1:00 PM WEDNESDAY, 10-30-02, WITH COPY TO STAFF SECRETARY. THANK YOU.

RESPONSE:

Harriet E. Miers
Assistant to the President
and Staff Secretary
Ext. 62702

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

THE DIRECTOR

October 29, 2002

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Bill H.R. 5596 - Modified Disclosure Requirements for Political Organizations
Sponsors - Rep. Brady (R) Texas and 5 cosponsors

Last Day for Action

November 4, 2002 - Monday

Purpose

Amends and exempts State and local political organizations from certain Internal Revenue Code requirements applicable to political organizations.

Agency Recommendations

Office of Management and Budget	Approval
Department of the Treasury	Approval
Department of Labor	No objection (Informally)
Department of the Justice	No comment (Informally)

Discussion

Section 527 of the Internal Revenue Code provides a limited tax-exempt status to "political organizations," defined as a party, committee, association, fund, or other entity organized and operated primarily for the purpose of directly or indirectly accepting contributions or making expenditures for an "exempt function." Exempt functions include influencing or attempting to influence the selection, nomination, election, or appointment of any individual to any Federal, State, or local public office or political organization office, or the election of Presidential or Vice-Presidential electors. Section 527 organizations are generally exempt from taxation on their "exempt function income," i.e., contributions, membership dues, proceeds from political fundraising, and other income related to the exempt functions.

Major provisions of the enrolled bill are described below. Other provisions of the enrolled bill are described in an Attachment.

Exemptions for State and Local Organizations

Initial Notice of Status Exemptions. To be treated as a section 527 organization, an organization is required, no later than 24 hours after the date on which it is established, to file with Treasury, electronically and in writing, an initial notice of status stating the purpose of the organization. The enrolled bill would exempt from the notice of status filing requirements any political organization that is a political committee of a State or local candidate, or a State or local committee of a political party. This provision would take effect as if it were included in P.L. 106-230, enacted on July 1, 2000, which established requirements for section 527 organizations to disclose their political activities. The Treasury Department notes that P.L. 106-230 includes an exemption for certain Federal-level political organizations, and that the failure to exempt State and local political organizations "created considerable confusion."

Disclosure of Expenditures and Contributions. Current law requires political organizations receiving contributions or making expenditures for an exempt function during any calendar year to file with the Secretary certain reports including: (1) the amount of each expenditure made to a person if the aggregate amount of expenditures to that person during the calendar year equals or exceeds $500, and the name and address of the person; and (2) the name and address of all contributors who contributed an aggregate amount of $200 or more to the organization during the calendar year and the amount of the contributions.

The enrolled bill would exempt any organization which is a "qualified State or local political organization" from the contribution and expenditure reporting requirements. The enrolled bill would define the term "qualified State or local political organization" as a political organization: (1) all of the exempt functions of which are solely for the purposes of influencing or attempting to influence the selection, nomination, election, or appointment of individuals to State or local public office or office in a State or a local political organization; (2) which is subject to State law that requires the organization to file a report that includes information regarding each separate expenditure from and contribution to the organization and on the person who makes the contribution or receives the expenditure; and (3) with respect to which the reports are made public by the State and available for inspection by the organization.

Under the enrolled bill, an organization would not be considered a qualified State or local political organization if a candidate for nomination or election to Federal elective public office or an individual who holds such office: (1) controls or materially participates in the direction of the organization; (2) solicits contributions to the organization; or (3) directs, in whole or in part, disbursements by the organization.

Amendments to Tax Return and Disclosure Requirements

Income Tax Return Requirements. Current law requires political organizations which have: (1) political organization taxable income for a taxable year; or (2) gross receipts of $25,000 or more for the taxable year to file an income tax return. The enrolled bill would eliminate the second of these requirements. It would also eliminate a requirement that the Secretary of the Treasury and the political organizations make these income tax returns public.

Annual Information Return Requirements. Current law provides that political organizations that are required to file an income tax return must also file an annual information return stating specifically the items of gross income, receipts, and disbursements. The enrolled bill would require: (1) only political organizations with annual gross receipts of $25,000 or more; and (2) qualified State or local political organizations with annual gross receipts of $100,000 or more to file an annual information return. Organizations exempted from this annual return filing requirement would include: (1) State and local committees of political parties and political committees of State and local candidates; (2) caucuses and associations of State or local officials; (3) authorized committees of candidates for Federal office under the Federal Election Campaign Act; (4) U.S. House and U.S. Senate campaign committees of political party committees; and (5) certain tax-exempt organizations. The enrolled bill would allow Treasury to relieve any organization from the annual information return requirements on a determination by Treasury that the filing is unnecessary for the efficient administration of the tax laws. These provisions of the enrolled bill would take effect as if they were included in Public Law 106-230.

Disclosure of Expenditures and Contributions. The enrolled bill would require that reports on contributions and expenditures include the date and purpose (in addition to the amount) of each expenditure of $500 or more and the date of each contribution of $200 or more during a calendar year.

Required reports with respect to any calendar year on expenditures and contributions would have to be filed electronically by organizations that have, or have reason to expect to have, contributions exceeding $50,000 or expenditures exceeding $50,000 in that calendar year. Penalties imposed for failure to report would be assessed and collected in the same manner as penalties imposed under current law for failure by exempt organizations to file certain information returns.

Database

The enrolled bill would require Treasury to make electronically filed notices of status and reports on expenditures and contributions available to the public on the Internet not later than 48 hours after they have been filed. Treasury would be required to make the entire database of notices and reports searchable by: (1) names, States, zip codes, custodians of records, directors, and general purposes of the organization; (2) entities related to the organizations; (3) contributors to the organizations; (4) employers of such organizations; (5) recipients of expenditures of the organizations; (6) ranges of contributors and expenditures; and (7) time periods of the notices and reports. This database would have to be downloadable. This provision would apply to reports required to be filed on or after June 30, 2003.

Conclusion and Recommendations

In its views letter, Treasury recommends approval of H.R. 5596, but notes that "it is unclear at this time whether the [Internal Revenue Service] will be able to meet all of the mandates imposed by the enrolled bill within the times prescribed. To do so will take a major effort, along with a redirection of scarce resources."

We join the Treasury in recommending approval of H.R. 5596, which passed both the House and the Senate by unanimous consent.

MEDaniels, Jr.

Mitchell E. Daniels, Jr.
Director

Enclosures

Attachment

Other Provisions of H.R. 5596

Initial Notice of Status. Current law provides that if an organization fails to meet the notice of status filing requirements, its taxable income is computed by taking into account what would otherwise be exempt function income. The enrolled bill would specify that exempt function income does not have to be segregated to be taken into account for this purpose. This provision would apply to failures occurring on or after the date of enactment of the enrolled bill.

The enrolled bill would eliminate the requirement that the notice of status be filed in writing. The requirement for filing electronically would remain in effect.

Material Changes to Information in Notice of Status. The enrolled bill would require an organization filing a notice of status to file a new notice whenever there is a material change to information provided in the notice. The new notice would have to be filed no later than 30 days after the material change. An organization failing to file a new notice would no longer be treated as a section 527 organization and its exempt function income would be taken into account in determining taxable income from the date of the material change until a new notice is filed. This provision would be effective for material changes that occur on or after the date of enactment of the enrolled bill. However, if a material change occurs during the 30-day period beginning on the date of enactment, a new notice would not be required to be filed before the later of: (1) 30 days after the date of the material change; or (2) 45 days after the date of enactment.

Notification of Interaction of Reporting Requirements. The enrolled bill would require Treasury, in consultation with the Federal Election Commission, to publicize the effects of the provisions of the enrolled bill and the interaction of the requirements to file a notification or report under section 527 and reports under the Federal Election Campaign Act.

Application of Fraud Penalty. The enrolled bill would provide that any entity required, pursuant to section 527, to furnish any information to the Secretary (or any other person) who willfully furnishes information that he or she knows to be fraudulent or false as to any material matter would be subject to a fine of not more than $10,000 (or $50,000 in the case of a corporation) or imprisonment of not more than one year or both.

Waiver of Tax and Penalties. The enrolled bill would authorize Treasury to waive any tax assessed after June 30, 2000, on an organization for failure to comply with the notification requirements on a showing that the failure was due to a reasonable cause and not willful neglect. Also, the enrolled bill would authorize Treasury to waive any penalties imposed after June 30, 2000, for failure to disclose contributions and expenditures on a showing that the failure was due to a reasonable cause and not willful neglect.

Effect of Amendments on Existing Disclosures. Notices, reports, or returns that were required to be filed with Treasury before the date of enactment of the enrolled bill and that were disclosed by Treasury consistent with the law in effect at the times of disclosure would remain public, even if the retroactive effective dates of certain parts of the enrolled bill mean that a notice or report was not required to have been filed.

****
*** TX REPORT ***
****

TRANSMISSION OK

TX/RX NO	1118
CONNECTION TEL	66212
CONNECTION ID	
ST. TIME	10/29 12:11
USAGE T	03'04
PGS. SENT	7
RESULT	OK

SS/ RM NO. 521802

WHITE HOUSE STAFFING MEMORANDUM

Date: 10-29-02, 11:00 PM ACTION / CONCURRENCE / COMMENT DUE BY: 10-30-02, 1:00 PM

Subject: ENROLLED BILL H.R. 5596, MODIFIED DISCLOSURE REQUIREMENTS FOR POLITICAL ORGANIZATIONS

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☑	☐	HUBBARD	☐	☐
CARD	☑	☐	IRASTORZA	☐	☐
BARTLETT	☑	☐	JOHNSON	☐	☐
BLAKEMAN	☐	☐	LINDSEY	☑	☐
BOLTEN	☑	☐	MARBURGER	☐	☐
BRIDGELAND	☐	☐	MIERS	☐	☐
CALIO	☑	☐	RICE	☐	☐
CONNAUGHTON	☐	☐	RIDGE	☐	☐
DANIELS	☐	☑	ROVE	☑	☐
FLEISCHER	☐	☑	SPELLINGS	☑	☐
GERSON	☐	☑	CLERK	☐	☑
GONZALES	☑	☐		☐	☐
HAGIN	☐	☐		☐	☐
HAWKINS	☑	☐		☐	☐

REMARKS:
PLEASE SEND COMMENTS TO JIM JUKES, EXT. 53458, FAX 56148, NO LATER THAN 1:00 PM

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DANIELS	☐	☑	ROVE	☑	☐
FLEISCHER	☐	☑	SPELLINGS	☑	☐
GERSON	☐	☑	CLERK	☐	☑
GONZALES	☑	☐	________	☐	☐
HAGIN	☐	☐	________	☐	☐
HAWKINS	☑	☐	________	☐	☐

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RESPONSE:

Harriet E. Miers
Assistant to the President
and Staff Secretary
Ext. 62702

****
*** TX REPORT ***
****

TRANSMISSION OK

TX/RX NO	1119
CONNECTION TEL	51005
CONNECTION ID	
ST. TIME	10/29 12:15
USAGE T	03'03
PGS. SENT	7
RESULT	OK

SS/ RM NO. 521802

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CALIO	☑	☐	RICE	☐	☐
CONNAUGHTON	☐	☐	RIDGE	☐	☐
DANIELS	☐	☑	ROVE	☑	☐
FLEISCHER	☐	☑	SPELLINGS	☑	☐
GERSON	☐	☑	CLERK	☐	☑
GONZALES	☑	☐		☐	☐
HAGIN	☐	☐		☐	☐
HAWKINS	☑	☐		☐	☐

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FLEISCHER	☐	☑	SPELLINGS	☑	☐
GERSON	☐	☑	CLERK	☐	☑
GONZALES	☑	☐	______	☐	☐
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HAWKINS	☑	☐	______	☐	☐

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Ext. 62702

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

October 29, 2002

THE DIRECTOR

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Bill H.R. 5596 - Modified Disclosure Requirements for Political Organizations
Sponsors - Rep. Brady (R) Texas and 5 cosponsors

Last Day for Action

November 4, 2002 - Monday

Purpose

Amends and exempts State and local political organizations from certain Internal Revenue Code requirements applicable to political organizations.

Agency Recommendations

Office of Management and Budget	Approval
Department of the Treasury	Approval
Department of Labor	No objection (Informally)
Department of the Justice	No comment (Informally)

Discussion

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Mitchell E. Daniels, Jr.
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Enclosures

Attachment

Other Provisions of H.R. 5596

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Waiver of Tax and Penalties. The enrolled bill would authorize Treasury to waive any tax assessed after June 30, 2000, on an organization for failure to comply with the notification requirements on a showing that the failure was due to a reasonable cause and not willful neglect. Also, the enrolled bill would authorize Treasury to waive any penalties imposed after June 30, 2000, for failure to disclose contributions and expenditures on a showing that the failure was due to a reasonable cause and not willful neglect.

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SS/ RM NO. 521802

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Date: 10-29-02, 11:00 PM ACTION / CONCURRENCE / COMMENT DUE BY: 10-30-02, 1:00 PM

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FLEISCHER	☐	☑	SPELLINGS	☑	☐
GERSON	☐	☑	CLERK	☐	☑
GONZALES	☑	☐	____________	☐	☐
HAGIN	☐	☐	____________	☐	☐
HAWKINS	☑	☐	____________	☐	☐

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THE DIRECTOR

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Disclosure of Expenditures and Contributions. Current law requires political organizations receiving contributions or making expenditures for an exempt function during any calendar year to file with the Secretary certain reports including: (1) the amount of each expenditure made to a person if the aggregate amount of expenditures to that person during the calendar year equals or exceeds $500, and the name and address of the person; and (2) the name and address of all contributors who contributed an aggregate amount of $200 or more to the organization during the calendar year and the amount of the contributions.

The enrolled bill would exempt any organization which is a "qualified State or local political organization" from the contribution and expenditure reporting requirements. The enrolled bill would define the term "qualified State or local political organization" as a political organization: (1) all of the exempt functions of which are solely for the purposes of influencing or attempting to influence the selection, nomination, election, or appointment of individuals to State or local public office or office in a State or a local political organization; (2) which is subject to State law that requires the organization to file a report that includes information regarding each separate expenditure from and contribution to the organization and on the person who makes the contribution or receives the expenditure; and (3) with respect to which the reports are made public by the State and available for inspection by the organization.

Under the enrolled bill, an organization would not be considered a qualified State or local political organization if a candidate for nomination or election to Federal elective public office or an individual who holds such office: (1) controls or materially participates in the direction of the organization; (2) solicits contributions to the organization; or (3) directs, in whole or in part, disbursements by the organization.

Amendments to Tax Return and Disclosure Requirements

Income Tax Return Requirements. Current law requires political organizations which have: (1) political organization taxable income for a taxable year; or (2) gross receipts of $25,000 or more for the taxable year to file an income tax return. The enrolled bill would eliminate the second of these requirements. It would also eliminate a requirement that the Secretary of the Treasury and the political organizations make these income tax returns public.

Annual Information Return Requirements. Current law provides that political organizations that are required to file an income tax return must also file an annual information return stating specifically the items of gross income, receipts, and disbursements. The enrolled bill would require: (1) only political organizations with annual gross receipts of $25,000 or more; and (2) qualified State or local political organizations with annual gross receipts of $100,000 or more to file an annual information return. Organizations exempted from this annual return filing requirement would include: (1) State and local committees of political parties and political committees of State and local candidates; (2) caucuses and associations of State or local officials; (3) authorized committees of candidates for Federal office under the Federal Election Campaign Act; (4) U.S. House and U.S. Senate campaign committees of political party committees; and (5) certain tax-exempt organizations. The enrolled bill would allow Treasury to relieve any organization from the annual information return requirements on a determination by Treasury that the filing is unnecessary for the efficient administration of the tax laws. These provisions of the enrolled bill would take effect as if they were included in Public Law 106-230.

Disclosure of Expenditures and Contributions. The enrolled bill would require that reports on contributions and expenditures include the date and purpose (in addition to the amount) of each expenditure of $500 or more and the date of each contribution of $200 or more during a calendar year.

Required reports with respect to any calendar year on expenditures and contributions would have to be filed electronically by organizations that have, or have reason to expect to have, contributions exceeding $50,000 or expenditures exceeding $50,000 in that calendar year. Penalties imposed for failure to report would be assessed and collected in the same manner as penalties imposed under current law for failure by exempt organizations to file certain information returns.

Database

The enrolled bill would require Treasury to make electronically filed notices of status and reports on expenditures and contributions available to the public on the Internet not later than 48 hours after they have been filed. Treasury would be required to make the entire database of notices and reports searchable by: (1) names, States, zip codes, custodians of records, directors, and general purposes of the organization; (2) entities related to the organizations; (3) contributors to the organizations; (4) employers of such organizations; (5) recipients of expenditures of the organizations; (6) ranges of contributors and expenditures; and (7) time periods of the notices and reports. This database would have to be downloadable. This provision would apply to reports required to be filed on or after June 30, 2003.

Conclusion and Recommendations

In its views letter, Treasury recommends approval of H.R. 5596, but notes that "it is unclear at this time whether the [Internal Revenue Service] will be able to meet all of the mandates imposed by the enrolled bill within the times prescribed. To do so will take a major effort, along with a redirection of scarce resources."

We join the Treasury in recommending approval of H.R. 5596, which passed both the House and the Senate by unanimous consent.

MEDaniels Jr

Mitchell E. Daniels, Jr.
Director

Enclosures

Effect of Amendments on Existing Disclosures. Notices, reports, or returns that were required to be filed with Treasury before the date of enactment of the enrolled bill and that were disclosed by Treasury consistent with the law in effect at the times of disclosure would remain public, even if the retroactive effective dates of certain parts of the enrolled bill mean that a notice or report was not required to have been filed.

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.

October 29, 2002

GENERAL COUNSEL

The Honorable Mitchell E. Daniels, Jr.
Director, Office of Management and Budget
Executive Office of the President
Washington, D.C. 20503

Attention: Assistant Director for Legislative Reference

Dear Mr. Daniels:

This responds to your request for the views of this Department on enrolled bill H.R. 5596. The enrolled bill would amend the Internal Revenue Code to modify the reporting requirements for section 527 political organizations. Among other modifications, the enrolled bill would eliminate notification and return requirements for State and local party committees and State and local candidate committees, and eliminate return requirements for certain State and local political committees that report similar information under State law.

The enrolled bill is intended to reduce the scope of reporting requirements enacted on July 1, 2000 (Pub. L. 106-230). The 2000 law imposed new reporting and disclosure requirements on section 527 political organizations. Although the 2000 law exempted political organizations that are required to report under the Federal Election Campaign Act, it did not contain a similar exception for political organizations that are required to report at the State level. The 2000 law created considerable confusion among political organizations that attempt to influence elections only at the State or local level.

In addition to exempting certain political organizations from the filing requirements under the 2000 law, the enrolled bill makes a number of other changes to the information reporting requirements. For example, the enrolled bill directs the Internal Revenue Service (IRS) to implement an electronic filing system and develop a searchable database of reports filed by section 527 organizations. It is unclear at this time whether the IRS will be able to meet all of the mandates imposed by the enrolled bill within the times prescribed. To do so will take a major effort, along with a redirection of scarce resources. The enrolled bill does not provide additional funding to the IRS; therefore, implementation will require that the IRS divert resources from other essential programs.

Notwithstanding our concerns about administrability, the Department of the Treasury does not object to the enrolled bill. Therefore, the Department recommends that the President sign enrolled bill H.R. 5596 into law.

Sincerely,

David D. Aufhauser

One Hundred Seventh Congress of the United States of America

AT THE SECOND SESSION

Begun and held at the City of Washington on Wednesday, the twenty-third day of January, two thousand and two

An Act

To amend section 527 of the Internal Revenue Code of 1986 to eliminate notification and return requirements for State and local party committees and candidate committees and avoid duplicate reporting by certain State and local political committees of information required to be reported and made publicly available under State law, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXEMPTION FOR CERTAIN STATE AND LOCAL POLITICAL COMMITTEES FROM NOTIFICATION REQUIREMENTS.

(a) EXEMPTION FROM NOTIFICATION REQUIREMENTS.—Paragraph (5) of section 527(i) of the Internal Revenue Code of 1986 (relating to organizations must notify Secretary that they are section 527 organizations) is amended by striking "or" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", or", and by adding at the end the following:

"(C) which is a political committee of a State or local candidate or which is a State or local committee of a political party.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in the amendments made by Public Law 106–230.

SEC. 2. EXEMPTION FOR CERTAIN STATE AND LOCAL POLITICAL COMMITTEES FROM REPORTING REQUIREMENTS.

(a) IN GENERAL.—Section 527(j)(5) of the Internal Revenue Code of 1986 (relating to coordination with other requirements) is amended by redesignating subparagraphs (C), (D), and (E) as subparagraphs (D), (E), and (F), respectively, and by inserting after subparagraph (B) the following new subparagraph:

"(C) to any organization which is a qualified State or local political organization,".

(b) QUALIFIED STATE OR LOCAL POLITICAL ORGANIZATION.—Subsection (e) of section 527 of the Internal Revenue Code of 1986 (relating to other definitions) is amended by adding at the end the following new paragraph:

"(5) QUALIFIED STATE OR LOCAL POLITICAL ORGANIZATION.—

"(A) IN GENERAL.—The term 'qualified State or local political organization' means a political organization—

"(i) all the exempt functions of which are solely for the purposes 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,

"(ii) which is subject to State law that requires the organization to report (and it so reports)—

"(I) information regarding each separate expenditure from and contribution to such organization, and

"(II) information regarding the person who makes such contribution or receives such expenditure,

which would otherwise be required to be reported under this section, and

"(iii) with respect to which the reports referred to in clause (ii) are (I) made public by the agency with which such reports are filed, and (II) made publicly available for inspection by the organization in the manner described in section 6104(d).

"(B) CERTAIN STATE LAW DIFFERENCES DISREGARDED.—An organization shall not be treated as failing to meet the requirements of subparagraph (A)(ii) solely by reason of 1 or more of the following:

"(i) The minimum amount of any expenditure or contribution required to be reported under State law is not more than $300 greater than the minimum amount required to be reported under subsection (j).

"(ii) The State law does not require the organization to identify 1 or more of the following:

"(I) The employer of any person who makes contributions to the organization.

"(II) The occupation of any person who makes contributions to the organization.

"(III) The employer of any person who receives expenditures from the organization.

"(IV) The occupation of any person who receives expenditures from the organization.

"(V) The purpose of any expenditure of the organization.

"(VI) The date any contribution was made to the organization.

"(VII) The date of any expenditure of the organization.

"(C) DE MINIMIS ERRORS.—An organization shall not fail to be treated as a qualified State or local political organization solely because such organization makes de minimis errors in complying with the State reporting requirements and the public inspection requirements described in subparagraph (A) as long as the organization corrects such errors within a reasonable period after the organization becomes aware of such errors.

"(D) PARTICIPATION OF FEDERAL CANDIDATE OR OFFICE HOLDER.—The term 'qualified State or local political organization' shall not include any organization otherwise described in subparagraph (A) if a candidate for nomination or election to Federal elective public office or an individual who holds such office—

"(i) controls or materially participates in the direction of the organization, "(ii) solicits contributions to the organization (unless the Secretary determines that such solicitations resulted in de minimis contributions and were made without the prior knowledge and consent, whether explicit or implicit, of the organization or its officers, directors, agents, or employees), or

"(iii) directs, in whole or in part, disbursements by the organization.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by Public Law 106–230.

SEC. 3. EXEMPTION FROM ANNUAL RETURN REQUIREMENTS.

(a) INCOME TAX RETURNS REQUIRED ONLY FOR POLITICAL ORGANIZATION TAXABLE INCOME.—Paragraph (6) of section 6012(a) of the Internal Revenue Code of 1986 (relating to persons required to make returns of income) is amended by striking "or which has" and all that follows through "section)".

(b) INCOME TAX RETURNS NOT SUBJECT TO DISCLOSURE.—

(1) DISCLOSURE BY THE SECRETARY.—Subsection (b) of section 6104 of such Code (relating to disclosure by the Secretary of annual information returns) is amended by striking "6012(a)(6),".

(2) PUBLIC INSPECTION.—Subsection (d) of section 6104 of such Code (relating to public inspection of certain annual returns) is amended—

(A) in paragraph (1)(A)(i) by striking "or section 6012(a)(6) (relating to returns by political organizations)", and

(B) in subparagraph (2) by striking "or section 6012(a)(6)".

(c) INFORMATION RETURNS.—Subsection (g) of section 6033 of such Code (relating to returns required by political organizations) is amended to read as follows:

"(g) RETURNS REQUIRED BY POLITICAL ORGANIZATIONS.—

"(1) IN GENERAL.—This section shall apply to a political organization (as defined by section 527(e)(1)) which has gross receipts of $25,000 or more for the taxable year. In the case of a political organization which is a qualified State or local political organization (as defined in section 527(e)(5)), the preceding sentence shall be applied by substituting '$100,000' for '$25,000'.

"(2) ANNUAL RETURNS.—Political organizations described in paragraph (1) shall file an annual return—

"(A) containing the information required, and complying with the other requirements, under subsection (a)(1) for organizations exempt from taxation under section 501(a), with such modifications as the Secretary considers appropriate to require only information which is necessary for the purposes of carrying out section 527, and

"(B) containing such other information as the Secretary deems necessary to carry out the provisions of this subsection.

"(3) MANDATORY EXCEPTIONS FROM FILING.—Paragraph (2) shall not apply to an organization—

"(A) which is a State or local committee of a political party, or political committee of a State or local candidate, "(B) which is a caucus or association of State or local officials,

"(C) which is an authorized committee (as defined in section 301(6) of the Federal Election Campaign Act of 1971) of a candidate for Federal office,

"(D) which is a national committee (as defined in section 301(14) of the Federal Election Campaign Act of 1971) of a political party,

"(E) which is a United States House of Representatives or United States Senate campaign committee of a political party committee,

"(F) which is required to report under the Federal Election Campaign Act of 1971 as a political committee (as defined in section 301(4) of such Act), or

"(G) to which section 527 applies for the taxable year solely by reason of subsection (f)(1) of such section.

"(4) DISCRETIONARY EXCEPTION.—The Secretary may relieve any organization required under paragraph (2) to file an information return from filing such a return if the Secretary determines that such filing is not necessary to the efficient administration of the internal revenue laws.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by Public Law 106–230.

SEC. 4. NOTIFICATION OF INTERACTION OF REPORTING REQUIREMENTS.

(a) IN GENERAL.—The Secretary of the Treasury, in consultation with the Federal Election Commission, shall publicize—

(1) the effect of the amendments made by this Act, and

(2) the interaction of requirements to file a notification or report under section 527 of the Internal Revenue Code of 1986 and reports under the Federal Election Campaign Act of 1971.

(b) INFORMATION.—Information provided under subsection (a) shall be included in any appropriate form, instruction, notice, or other guidance issued to the public by the Secretary of the Treasury or the Federal Election Commission regarding reporting requirements of political organizations (as defined in section 527 of the Internal Revenue Code of 1986) or reporting requirements under the Federal Election Campaign Act of 1971.

SEC. 5. WAIVER OF FILING AMOUNTS.

(a) WAIVER OF FILING AMOUNTS.—Section 527 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

"(k) AUTHORITY TO WAIVE.—The Secretary may waive all or any portion of the—

"(1) tax assessed on an organization by reason of the failure of the organization to comply with the requirements of subsection (i), or

"(2) amount imposed under subsection (j) for a failure to comply with the requirements thereof,

on a showing that such failure was due to reasonable cause and not due to willful neglect.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to any tax assessed or amount imposed after June 30, 2000.

SEC. 6. MODIFICATIONS TO SECTION 527 ORGANIZATION DISCLOSURE PROVISIONS.

(a) UNSEGREGATED FUNDS NOT TO AVOID TAX.—Paragraph (4) of section 527(i) of the Internal Revenue Code of 1986 (relating to failure to notify) is amended by adding at the end the following new sentence: "For purposes of the preceding sentence, the term 'exempt function income' means any amount described in a subparagraph of subsection (c)(3), whether or not segregated for use for an exempt function.".

(b) PROCEDURES FOR ASSESSMENT AND COLLECTION OF AMOUNTS.—Paragraph (1) of section 527(j) of the Internal Revenue Code of 1986 (relating to required disclosure of expenditures and contributions) is amended by adding at the end the following new sentence: "For purposes of subtitle F, the amount imposed by this paragraph shall be assessed and collected in the same manner as penalties imposed by section 6652(c).".

(c) DUPLICATE WRITTEN FILINGS NOT REQUIRED.—Subparagraph (A) of section 527(i)(1) of the Internal Revenue Code of 1986 is amended by striking ", electronically and in writing," and inserting "electronically".

(d) APPLICATION OF FRAUD PENALTY.—Section 7207 of the Internal Revenue Code of 1986 (relating to fraudulent returns, statements, and other documents) is amended by striking "pursuant to subsection (b) of section 6047 or pursuant to subsection (d) of section 6104" and inserting "pursuant to section 6047(b), section 6104(d), or subsection (i) or (j) of section 527".

(e) CONTENTS AND FILING OF REPORT.—

(1) CONTENTS.—Section 527(j)(3) of the Internal Revenue Code of 1986 (relating to contents of report) is amended—

(A) by inserting ", date, and purpose" after "The amount" in subparagraph (A), and

(B) by inserting "and date" after "the amount" in subparagraph (B).

(2) ELECTRONIC FILING.—Section 527(j) of such Code is amended by adding at the end the following new paragraph:

"(7) ELECTRONIC FILING.—Any report required under paragraph (2) with respect to any calendar year shall be filed in electronic form if the organization has, or has reason to expect to have, contributions exceeding $50,000 or expenditures exceeding $50,000 in such calendar year.".

(3) ELECTRONIC FILING AND ACCESS OF REQUIRED DISCLOSURES.—Section 527 of such Code, as amended by section 5(a), is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

"(k) PUBLIC AVAILABILITY OF NOTICES AND REPORTS.—

"(1) IN GENERAL.—The Secretary shall make any notice described in subsection (i)(1) or report described in subsection (j)(7) available for public inspection on the Internet not later than 48 hours after such notice or report has been filed (in addition to such public availability as may be made under section 6104(d)(7)).

"(2) ACCESS.—The Secretary shall make the entire database of notices and reports which are made available to the public under paragraph (1) searchable by the following items (to the extent the items are required to be included in the notices and reports):

"(A) Names, States, zip codes, custodians of records, directors, and general purposes of the organizations.

"(B) Entities related to the organizations.

"(C) Contributors to the organizations.

"(D) Employers of such contributors.

"(E) Recipients of expenditures by the organizations.

"(F) Ranges of contributions and expenditures.

"(G) Time periods of the notices and reports.

Such database shall be downloadable.".

(f) CONTENTS OF NOTICE.—Section 527(i)(3) of the Internal Revenue Code of 1986 (relating to contents of notice) is amended by striking "and" at the end of subparagraph (D), by redesignating subparagraph (E) as subparagraph (F), and by inserting after subparagraph (D) the following new subparagraph:

"(E) whether the organization intends to claim an exemption from the requirements of subsection (j) or section 6033, and".

(g) TIMING OF NOTICE IN CASE OF MATERIAL CHANGE.—

(1) IN GENERAL.—Subparagraph (B) of section 527(i)(1) of the Internal Revenue Code of 1986 (relating to general notification requirement) is amended by inserting "or, in the case of any material change in the information required under paragraph (3), for the period beginning on the date on which the material change occurs and ending on the date on which such notice is given" after "given".

(2) TIME TO GIVE NOTICE.—Section 527(i)(2) of the Internal Revenue Code of 1986 (relating to time to give notice) is amended by inserting "or, in the case of any material change in the information required under paragraph (3), not later than 30 days after such material change" after "established".

(3) EFFECT OF FAILURE.—Paragraph (4) of section 527(i) of the Internal Revenue Code of 1986 (relating to effect of failure) is amended by inserting before the period at the end the following: "or, in the case of a failure relating to a material change, by taking into account such income and deductions only during the period beginning on the date on which the material change occurs and ending on the date on which notice is given under this subsection".

(h) EFFECTIVE DATES.—

(1) SUBSECTIONS (a) AND (b).—The amendments made by subsections (a) and (b) shall apply to failures occurring on or after the date of the enactment of this Act.

(2) SUBSECTION (c).—The amendments made by subsection (c) shall take effect as if included in the amendments made by Public Law 106–230.

(3) SUBSECTION (d).—The amendment made by subsection (d) shall apply to reports and notices required to be filed on or after the date of the enactment of this Act.

(4) SUBSECTIONS (e)(1) AND (f).—The amendments made by subsections (e)(1) and (f) shall apply to reports and notices required to be filed more than 30 days after the date of the enactment of this Act.

(5) SUBSECTIONS (e)(2) AND (e)(3).—The amendments made by subsections (e)(2) and (e)(3) shall apply to reports required to be filed on or after June 30, 2003.

(6) SUBSECTION (g).—

(A) IN GENERAL.—The amendments made by subsection (g) shall apply to material changes on or after the date of the enactment of this Act.

(B) TRANSITION RULE.—In the case of a material change occurring during the 30-day period beginning on the date of the enactment of this Act, a notice under section 527(i) of the Internal Revenue Code of 1986 (as amended by this Act) shall not be required to be filed under such section before the later of—

(i) 30 days after the date of such material change, or

(ii) 45 days after the date of the enactment of this Act.

SEC. 7. EFFECT OF AMENDMENTS ON EXISTING DISCLOSURES.

Notices, reports, or returns that were required to be filed with the Secretary of the Treasury before the date of the enactment of the amendments made by this Act and that were disclosed by the Secretary of the Treasury consistent with the law in effect at the time of disclosure shall remain subject on and after such date to the disclosure provisions of section 6104 of the Internal Revenue Code of 1986.

Speaker of the House of Representatives.

Vice President of the United States and
President of the Senate.

S21802

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

THE DIRECTOR

October 29, 2002

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Bill H.R. 5596 - Modified Disclosure Requirements for Political Organizations
Sponsors - Rep. Brady (R) Texas and 5 cosponsors

Last Day for Action

November 4, 2002 - Monday

Purpose

Amends and exempts State and local political organizations from certain Internal Revenue Code requirements applicable to political organizations.

Agency Recommendations

Office of Management and Budget	Approval
Department of the Treasury	Approval
Department of Labor	No objection (Informally)
Department of the Justice	No comment (Informally)

Discussion

Section 527 of the Internal Revenue Code provides a limited tax-exempt status to "political organizations," defined as a party, committee, association, fund, or other entity organized and operated primarily for the purpose of directly or indirectly accepting contributions or making expenditures for an "exempt function." Exempt functions include influencing or attempting to influence the selection, nomination, election, or appointment of any individual to any Federal, State, or local public office or political organization office, or the election of Presidential or Vice-Presidential electors. Section 527 organizations are generally exempt from taxation on their "exempt function income," i.e., contributions, membership dues, proceeds from political fundraising, and other income related to the exempt functions.

Major provisions of the enrolled bill are described below. Other provisions of the enrolled bill are described in an Attachment.

Exemptions for State and Local Organizations

Initial Notice of Status Exemptions. To be treated as a section 527 organization, an organization is required, no later than 24 hours after the date on which it is established, to file with Treasury, electronically and in writing, an initial notice of status stating the purpose of the organization. The enrolled bill would exempt from the notice of status filing requirements any political organization that is a political committee of a State or local candidate, or a State or local committee of a political party. This provision would take effect as if it were included in P.L. 106-230, enacted on July 1, 2000, which established requirements for section 527 organizations to disclose their political activities. The Treasury Department notes that P.L. 106-230 includes an exemption for certain Federal-level political organizations, and that the failure to exempt State and local political organizations "created considerable confusion."

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The enrolled bill would exempt any organization which is a "qualified State or local political organization" from the contribution and expenditure reporting requirements. The enrolled bill would define the term "qualified State or local political organization" as a political organization: (1) all of the exempt functions of which are solely for the purposes of influencing or attempting to influence the selection, nomination, election, or appointment of individuals to State or local public office or office in a State or a local political organization; (2) which is subject to State law that requires the organization to file a report that includes information regarding each separate expenditure from and contribution to the organization and on the person who makes the contribution or receives the expenditure; and (3) with respect to which the reports are made public by the State and available for inspection by the organization.

Under the enrolled bill, an organization would not be considered a qualified State or local political organization if a candidate for nomination or election to Federal elective public office or an individual who holds such office: (1) controls or materially participates in the direction of the organization; (2) solicits contributions to the organization; or (3) directs, in whole or in part, disbursements by the organization.

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Annual Information Return Requirements. Current law provides that political organizations that are required to file an income tax return must also file an annual information return stating specifically the items of gross income, receipts, and disbursements. The enrolled bill would require: (1) only political organizations with annual gross receipts of $25,000 or more; and (2) qualified State or local political organizations with annual gross receipts of $100,000 or more to file an annual information return. Organizations exempted from this annual return filing requirement would include: (1) State and local committees of political parties and political committees of State and local candidates; (2) caucuses and associations of State or local officials; (3) authorized committees of candidates for Federal office under the Federal Election Campaign Act; (4) U.S. House and U.S. Senate campaign committees of political party committees; and (5) certain tax-exempt organizations. The enrolled bill would allow Treasury to relieve any organization from the annual information return requirements on a determination by Treasury that the filing is unnecessary for the efficient administration of the tax laws. These provisions of the enrolled bill would take effect as if they were included in Public Law 106-230.

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Required reports with respect to any calendar year on expenditures and contributions would have to be filed electronically by organizations that have, or have reason to expect to have, contributions exceeding $50,000 or expenditures exceeding $50,000 in that calendar year. Penalties imposed for failure to report would be assessed and collected in the same manner as penalties imposed under current law for failure by exempt organizations to file certain information returns.

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Conclusion and Recommendations

In its views letter, Treasury recommends approval of H.R. 5596, but notes that "it is unclear at this time whether the [Internal Revenue Service] will be able to meet all of the mandates imposed by the enrolled bill within the times prescribed. To do so will take a major effort, along with a redirection of scarce resources."

We join the Treasury in recommending approval of H.R. 5596, which passed both the House and the Senate by unanimous consent.

MEDaniels, Jr.

Mitchell E. Daniels, Jr.
Director

Enclosures

Attachment

Other Provisions of H.R. 5596

Initial Notice of Status. Current law provides that if an organization fails to meet the notice of status filing requirements, its taxable income is computed by taking into account what would otherwise be exempt function income. The enrolled bill would specify that exempt function income does not have to be segregated to be taken into account for this purpose. This provision would apply to failures occurring on or after the date of enactment of the enrolled bill.

The enrolled bill would eliminate the requirement that the notice of status be filed in writing. The requirement for filing electronically would remain in effect.

Material Changes to Information in Notice of Status. The enrolled bill would require an organization filing a notice of status to file a new notice whenever there is a material change to information provided in the notice. The new notice would have to be filed no later than 30 days after the material change. An organization failing to file a new notice would no longer be treated as a section 527 organization and its exempt function income would be taken into account in determining taxable income from the date of the material change until a new notice is filed. This provision would be effective for material changes that occur on or after the date of enactment of the enrolled bill. However, if a material change occurs during the 30-day period beginning on the date of enactment, a new notice would not be required to be filed before the later of: (1) 30 days after the date of the material change; or (2) 45 days after the date of enactment.

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EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

THE DIRECTOR

October 29, 2002

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Bill H.R. 5596 - Modified Disclosure Requirements for Political Organizations
Sponsors - Rep. Brady (R) Texas and 5 cosponsors

Last Day for Action

November 4, 2002 - Monday

Purpose

Amends and exempts State and local political organizations from certain Internal Revenue Code requirements applicable to political organizations.

Agency Recommendations

Office of Management and Budget	Approval
Department of the Treasury	Approval
Department of Labor	No objection (Informally)
Department of the Justice	No comment (Informally)

Discussion

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Major provisions of the enrolled bill are described below. Other provisions of the enrolled bill are described in an Attachment.

Exemptions for State and Local Organizations

Initial Notice of Status Exemptions. To be treated as a section 527 organization, an organization is required, no later than 24 hours after the date on which it is established, to file with Treasury, electronically and in writing, an initial notice of status stating the purpose of the organization. The enrolled bill would exempt from the notice of status filing requirements any political organization that is a political committee of a State or local candidate, or a State or local committee of a political party. This provision would take effect as if it were included in P.L. 106-230, enacted on July 1, 2000, which established requirements for section 527 organizations to disclose their political activities. The Treasury Department notes that P.L. 106-230 includes an exemption for certain Federal-level political organizations, and that the failure to exempt State and local political organizations "created considerable confusion."

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The enrolled bill would exempt any organization which is a "qualified State or local political organization" from the contribution and expenditure reporting requirements. The enrolled bill would define the term "qualified State or local political organization" as a political organization: (1) all of the exempt functions of which are solely for the purposes of influencing or attempting to influence the selection, nomination, election, or appointment of individuals to State or local public office or office in a State or a local political organization; (2) which is subject to State law that requires the organization to file a report that includes information regarding each separate expenditure from and contribution to the organization and on the person who makes the contribution or receives the expenditure; and (3) with respect to which the reports are made public by the State and available for inspection by the organization.

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SS/ RM NO. 521802

WHITE HOUSE STAFFING MEMORANDUM

Date: 10-29-02, 11:00 PM ACTION / CONCURRENCE / COMMENT DUE BY: 10-30-02, 1:00 PM

Subject: ENROLLED BILL H.R. 5596, MODIFIED DISCLOSURE REQUIREMENTS FOR POLITICAL ORGANIZATIONS

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☑	☐	HUBBARD	☐	☐
CARD	☑	☐	IRASTORZA	☐	☐
BARTLETT	☑	☐	JOHNSON	☐	☐
BLAKEMAN	☐	☐	LINDSEY	☑	☐
BOLTEN	☑	☐	MARBURGER	☐	☐
BRIDGELAND	☐	☐	MIERS	☐	☐
CALIO	☑	☐	RICE	☐	☐
CONNAUGHTON	☐	☐	RIDGE	☐	☐
DANIELS	☐	☑	ROVE	☑	☐
FLEISCHER	☐	☑	SPELLINGS	☑	☐
GERSON	☐	☑	CLERK	☐	☑
GONZALES	☑	☐	______________	☐	☐
HAGIN	☐	☐	______________	☐	☐
HAWKINS	☑	☐	______________	☐	☐

REMARKS:

PLEASE SEND COMMENTS TO JIM JUKES, EXT. 53458, FAX 56148, NO LATER THAN 1:00 PM WEDNESDAY, 10-30-02, WITH COPY TO STAFF SECRETARY. THANK YOU.

0555

RESPONSE:

JC AHC 10/30

Harriet E. Miers
Assistant to the President
and Staff Secretary
Ext. 62702

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

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10/30/02 WED 08:11 FAX ☑002

SS/ RM NO. 521802

'02 OCT 30 AM8:25

WHITE HOUSE STAFFING MEMORANDUM

Date: 10-29-02, 11:00 PM ACTION / CONCURRENCE / COMMENT DUE BY: 10-30-02, 1:00 PM

Subject: ENROLLED BILL H.R. 5596, MODIFIED DISCLOSURE REQUIREMENTS FOR POLITICAL ORGANIZATIONS

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☑	☐	HUBBARD	☐	☐
CARD	☑	☐	IRASTORZA	☐	☐
BARTLETT	☑	☐	JOHNSON	☐	☐
BLAKEMAN	☐	☐	LINDSEY	☑	☐
BOLTEN	☑	☐	MARBURGER	☐	☐
BRIDGELAND	☐	☐	MIERS	☐	☐
CALIO	☑	☐	RICE	☐	☐
CONNAUGHTON	☐	☐	RIDGE	☐	☐
DANIELS	☐	☑	ROVE	☑	☐
FLEISCHER	☐	☑	SPELLINGS	☑	☐
GERSON	☐	☑	CLERK	☐	☑
GONZALES	☑	☐	________	☐	☐
HAGIN	☐	☐	________	☐	☐
HAWKINS	☑	☐	________	☐	☐

REMARKS:

PLEASE SEND COMMENTS TO JIM JUKES, EXT. 53458, FAX 56148, NO LATER THAN 1:00 PM WEDNESDAY, 10-30-02, WITH COPY TO STAFF SECRETARY. THANK YOU.

No Comment

RESPONSE:

2002 OCT 30 AM 7:51

Harriet E. Miers
Assistant to the President
and Staff Secretary
Ext. 62702

SS/ RM NO. 521802

WHITE HOUSE STAFFING MEMORANDUM

Date: 10-29-02, 11:00 PM ACTION / CONCURRENCE / COMMENT DUE BY: 10-30-02, 1:00 PM

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CONNAUGHTON	☐	☐	RIDGE	☐	☐
DANIELS	☐	☑	ROVE	☑	☐
FLEISCHER	☐	☑	SPELLINGS [redacted]	☑	☐
GERSON	☐	☑	CLERK	☐	☑
GONZALES	☑	☐	________	☐	☐
HAGIN	☐	☐	________	☐	☐
HAWKINS	☑	☐	________	☐	☐

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RESPONSE:

cc Jay
Diane
Teri

ok H

Harriet E. Miers
Assistant to the President
and Staff Secretary
Ext. 62702

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

October 29, 2002

THE DIRECTOR

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Bill H.R. 5596 - Modified Disclosure Requirements for Political Organizations
Sponsors - Rep. Brady (R) Texas and 5 cosponsors

Last Day for Action

November 4, 2002 - Monday

Purpose

Amends and exempts State and local political organizations from certain Internal Revenue Code requirements applicable to political organizations.

Agency Recommendations

Office of Management and Budget	Approval
Department of the Treasury	Approval
Department of Labor	No objection (Informally)
Department of the Justice	No comment (Informally)

Discussion

Section 527 of the Internal Revenue Code provides a limited tax-exempt status to "political organizations," defined as a party, committee, association, fund, or other entity organized and operated primarily for the purpose of directly or indirectly accepting contributions or making expenditures for an "exempt function." Exempt functions include influencing or attempting to influence the selection, nomination, election, or appointment of any individual to any Federal, State, or local public office or political organization office, or the election of Presidential or Vice-Presidential electors. Section 527 organizations are generally exempt from taxation on their "exempt function income," i.e., contributions, membership dues, proceeds from political fundraising, and other income related to the exempt functions.

Major provisions of the enrolled bill are described below. Other provisions of the enrolled bill are described in an Attachment.

Exemptions for State and Local Organizations

Initial Notice of Status Exemptions. To be treated as a section 527 organization, an organization is required, no later than 24 hours after the date on which it is established, to file with Treasury, electronically and in writing, an initial notice of status stating the purpose of the organization. The enrolled bill would exempt from the notice of status filing requirements any political organization that is a political committee of a State or local candidate, or a State or local committee of a political party. This provision would take effect as if it were included in P.L. 106-230, enacted on July 1, 2000, which established requirements for section 527 organizations to disclose their political activities. The Treasury Department notes that P.L. 106-230 includes an exemption for certain Federal-level political organizations, and that the failure to exempt State and local political organizations "created considerable confusion."

Disclosure of Expenditures and Contributions. Current law requires political organizations receiving contributions or making expenditures for an exempt function during any calendar year to file with the Secretary certain reports including: (1) the amount of each expenditure made to a person if the aggregate amount of expenditures to that person during the calendar year equals or exceeds $500, and the name and address of the person; and (2) the name and address of all contributors who contributed an aggregate amount of $200 or more to the organization during the calendar year and the amount of the contributions.

The enrolled bill would exempt any organization which is a "qualified State or local political organization" from the contribution and expenditure reporting requirements. The enrolled bill would define the term "qualified State or local political organization" as a political organization: (1) all of the exempt functions of which are solely for the purposes of influencing or attempting to influence the selection, nomination, election, or appointment of individuals to State or local public office or office in a State or a local political organization; (2) which is subject to State law that requires the organization to file a report that includes information regarding each separate expenditure from and contribution to the organization and on the person who makes the contribution or receives the expenditure; and (3) with respect to which the reports are made public by the State and available for inspection by the organization.

Under the enrolled bill, an organization would not be considered a qualified State or local political organization if a candidate for nomination or election to Federal elective public office or an individual who holds such office: (1) controls or materially participates in the direction of the organization; (2) solicits contributions to the organization; or (3) directs, in whole or in part, disbursements by the organization.

Amendments to Tax Return and Disclosure Requirements

Income Tax Return Requirements. Current law requires political organizations which have: (1) political organization taxable income for a taxable year; or (2) gross receipts of $25,000 or more for the taxable year to file an income tax return. The enrolled bill would eliminate the second of these requirements. It would also eliminate a requirement that the Secretary of the Treasury and the political organizations make these income tax returns public.

Annual Information Return Requirements. Current law provides that political organizations that are required to file an income tax return must also file an annual information return stating specifically the items of gross income, receipts, and disbursements. The enrolled bill would require: (1) only political organizations with annual gross receipts of $25,000 or more; and (2) qualified State or local political organizations with annual gross receipts of $100,000 or more to file an annual information return. Organizations exempted from this annual return filing requirement would include: (1) State and local committees of political parties and political committees of State and local candidates; (2) caucuses and associations of State or local officials; (3) authorized committees of candidates for Federal office under the Federal Election Campaign Act; (4) U.S. House and U.S. Senate campaign committees of political party committees; and (5) certain tax-exempt organizations. The enrolled bill would allow Treasury to relieve any organization from the annual information return requirements on a determination by Treasury that the filing is unnecessary for the efficient administration of the tax laws. These provisions of the enrolled bill would take effect as if they were included in Public Law 106-230.

Disclosure of Expenditures and Contributions. The enrolled bill would require that reports on contributions and expenditures include the date and purpose (in addition to the amount) of each expenditure of $500 or more and the date of each contribution of $200 or more during a calendar year.

Required reports with respect to any calendar year on expenditures and contributions would have to be filed electronically by organizations that have, or have reason to expect to have, contributions exceeding $50,000 or expenditures exceeding $50,000 in that calendar year. Penalties imposed for failure to report would be assessed and collected in the same manner as penalties imposed under current law for failure by exempt organizations to file certain information returns.

Database

The enrolled bill would require Treasury to make electronically filed notices of status and reports on expenditures and contributions available to the public on the Internet not later than 48 hours after they have been filed. Treasury would be required to make the entire database of notices and reports searchable by: (1) names, States, zip codes, custodians of records, directors, and general purposes of the organization; (2) entities related to the organizations; (3) contributors to the organizations; (4) employers of such organizations; (5) recipients of expenditures of the organizations; (6) ranges of contributors and expenditures; and (7) time periods of the notices and reports. This database would have to be downloadable. This provision would apply to reports required to be filed on or after June 30, 2003.

Conclusion and Recommendations

In its views letter, Treasury recommends approval of H.R. 5596, but notes that "it is unclear at this time whether the [Internal Revenue Service] will be able to meet all of the mandates imposed by the enrolled bill within the times prescribed. To do so will take a major effort, along with a redirection of scarce resources."

We join the Treasury in recommending approval of H.R. 5596, which passed both the House and the Senate by unanimous consent.

MEDaniel Jr

Mitchell E. Daniels, Jr.
Director

Enclosures

Attachment

Other Provisions of H.R. 5596

Initial Notice of Status. Current law provides that if an organization fails to meet the notice of status filing requirements, its taxable income is computed by taking into account what would otherwise be exempt function income. The enrolled bill would specify that exempt function income does not have to be segregated to be taken into account for this purpose. This provision would apply to failures occurring on or after the date of enactment of the enrolled bill.

The enrolled bill would eliminate the requirement that the notice of status be filed in writing. The requirement for filing electronically would remain in effect.

Material Changes to Information in Notice of Status. The enrolled bill would require an organization filing a notice of status to file a new notice whenever there is a material change to information provided in the notice. The new notice would have to be filed no later than 30 days after the material change. An organization failing to file a new notice would no longer be treated as a section 527 organization and its exempt function income would be taken into account in determining taxable income from the date of the material change until a new notice is filed. This provision would be effective for material changes that occur on or after the date of enactment of the enrolled bill. However, if a material change occurs during the 30-day period beginning on the date of enactment, a new notice would not be required to be filed before the later of: (1) 30 days after the date of the material change; or (2) 45 days after the date of enactment.

Notification of Interaction of Reporting Requirements. The enrolled bill would require Treasury, in consultation with the Federal Election Commission, to publicize the effects of the provisions of the enrolled bill and the interaction of the requirements to file a notification or report under section 527 and reports under the Federal Election Campaign Act.

Application of Fraud Penalty. The enrolled bill would provide that any entity required, pursuant to section 527, to furnish any information to the Secretary (or any other person) who willfully furnishes information that he or she knows to be fraudulent or false as to any material matter would be subject to a fine of not more than $10,000 (or $50,000 in the case of a corporation) or imprisonment of not more than one year or both.

Waiver of Tax and Penalties. The enrolled bill would authorize Treasury to waive any tax assessed after June 30, 2000, on an organization for failure to comply with the notification requirements on a showing that the failure was due to a reasonable cause and not willful neglect. Also, the enrolled bill would authorize Treasury to waive any penalties imposed after June 30, 2000, for failure to disclose contributions and expenditures on a showing that the failure was due to a reasonable cause and not willful neglect.

Effect of Amendments on Existing Disclosures. Notices, reports, or returns that were required to be filed with Treasury before the date of enactment of the enrolled bill and that were disclosed by Treasury consistent with the law in effect at the times of disclosure would remain public, even if the retroactive effective dates of certain parts of the enrolled bill mean that a notice or report was not required to have been filed.

SS/ RM NO. 521802

WHITE HOUSE STAFFING MEMORANDUM

Date: 10-29-02, 11:00 PM ACTION / CONCURRENCE / COMMENT DUE BY: 10-30-02, 1:00 PM

Subject: ENROLLED BILL H.R. 5596, MODIFIED DISCLOSURE REQUIREMENTS FOR POLITICAL ORGANIZATIONS

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☑	☐	HUBBARD	☐	☐
CARD	☑	☐	IRASTORZA	☐	☐
BARTLETT	☑	☐	JOHNSON	☐	☐
BLAKEMAN	☐	☐	LINDSEY	☑	☐
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CALIO	☑	☐	RICE	☐	☐
CONNAUGHTON	☐	☐	RIDGE	☐	☐
DANIELS	☐	☑	ROVE	☑	☐
FLEISCHER	☐	☑	SPELLINGS	☑	☐
GERSON	☐	☑	CLERK	☐	☑
GONZALES	☑	☐	______	☐	☐
HAGIN	☐	☐	______	☐	☐
HAWKINS	☑	☐	______	☐	☐

REMARKS:
PLEASE SEND COMMENTS TO JIM JUKES, EXT. 53458, FAX 56148, NO LATER THAN 1:00 PM WEDNESDAY, 10-30-02, WITH COPY TO STAFF SECRETARY. THANK YOU.

OK

RESPONSE:

Harriet E. Miers
Assistant to the President
and Staff Secretary
Ext. 62702

SS/ RM NO. 521802

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BLAKEMAN	☐	☐	LINDSEY	✓	☐
BOLTEN	✓	☐	MARBURGER	☐	☐
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CALIO	✓	☐	RICE	☐	☐
CONNAUGHTON	☐	☐	RIDGE	☐	☐
DANIELS	☐	✓	ROVE	✓	☐
FLEISCHER	☐	✓	SPELLINGS	✓	☐
GERSON	☐	✓	CLERK	☐	✓
GONZALES	✓	☐	______	☐	☐
HAGIN	☐	☐	______	☐	☐
HAWKINS	✓	☐	______	☐	☐

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Legislative Affairs (Howard)

RESPONSE:

ok

Harriet E. Miers
Assistant to the President
and Staff Secretary
Ext. 62702

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

October 29, 2002

THE DIRECTOR

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Bill H.R. 5596 - Modified Disclosure Requirements for Political Organizations
Sponsors - Rep. Brady (R) Texas and 5 cosponsors

Last Day for Action

November 4, 2002 - Monday

Purpose

Amends and exempts State and local political organizations from certain Internal Revenue Code requirements applicable to political organizations.

Agency Recommendations

Office of Management and Budget	Approval
Department of the Treasury	Approval
Department of Labor	No objection (Informally)
Department of the Justice	No comment (Informally)

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MEDaniels Jr.

Mitchell E. Daniels, Jr.
Director

Enclosures

Attachment

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Application of Fraud Penalty. The enrolled bill would provide that any entity required, pursuant to section 527, to furnish any information to the Secretary (or any other person) who willfully furnishes information that he or she knows to be fraudulent or false as to any material matter would be subject to a fine of not more than $10,000 (or $50,000 in the case of a corporation) or imprisonment of not more than one year or both.

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SS/ RM NO. 521802

WHITE HOUSE STAFFING MEMORANDUM

Date: 10-29-02, 11:00 PM ACTION / CONCURRENCE / COMMENT DUE BY: 10-30-02, 1:00 PM

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no comnt

RESPONSE:

Harriet E. Miers
Assistant to the President
and Staff Secretary
Ext. 62702

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

October 29, 2002

THE DIRECTOR

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Bill H.R. 5596 - Modified Disclosure Requirements for Political Organizations
Sponsors - Rep. Brady (R) Texas and 5 cosponsors

Last Day for Action

November 4, 2002 - Monday

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The enrolled bill would exempt any organization which is a "qualified State or local political organization" from the contribution and expenditure reporting requirements. The enrolled bill would define the term "qualified State or local political organization" as a political organization: (1) all of the exempt functions of which are solely for the purposes of influencing or attempting to influence the selection, nomination, election, or appointment of individuals to State or local public office or office in a State or a local political organization; (2) which is subject to State law that requires the organization to file a report that includes information regarding each separate expenditure from and contribution to the organization and on the person who makes the contribution or receives the expenditure; and (3) with respect to which the reports are made public by the State and available for inspection by the organization.

Under the enrolled bill, an organization would not be considered a qualified State or local political organization if a candidate for nomination or election to Federal elective public office or an individual who holds such office: (1) controls or materially participates in the direction of the organization; (2) solicits contributions to the organization; or (3) directs, in whole or in part, disbursements by the organization.

Amendments to Tax Return and Disclosure Requirements

Income Tax Return Requirements. Current law requires political organizations which have: (1) political organization taxable income for a taxable year; or (2) gross receipts of $25,000 or more for the taxable year to file an income tax return. The enrolled bill would eliminate the second of these requirements. It would also eliminate a requirement that the Secretary of the Treasury and the political organizations make these income tax returns public.

Annual Information Return Requirements. Current law provides that political organizations that are required to file an income tax return must also file an annual information return stating specifically the items of gross income, receipts, and disbursements. The enrolled bill would require: (1) only political organizations with annual gross receipts of $25,000 or more; and (2) qualified State or local political organizations with annual gross receipts of $100,000 or more to file an annual information return. Organizations exempted from this annual return filing requirement would include: (1) State and local committees of political parties and political committees of State and local candidates; (2) caucuses and associations of State or local officials; (3) authorized committees of candidates for Federal office under the Federal Election Campaign Act; (4) U.S. House and U.S. Senate campaign committees of political party committees; and (5) certain tax-exempt organizations. The enrolled bill would allow Treasury to relieve any organization from the annual information return requirements on a determination by Treasury that the filing is unnecessary for the efficient administration of the tax laws. These provisions of the enrolled bill would take effect as if they were included in Public Law 106-230.

Disclosure of Expenditures and Contributions. The enrolled bill would require that reports on contributions and expenditures include the date and purpose (in addition to the amount) of each expenditure of $500 or more and the date of each contribution of $200 or more during a calendar year.

Required reports with respect to any calendar year on expenditures and contributions would have to be filed electronically by organizations that have, or have reason to expect to have, contributions exceeding $50,000 or expenditures exceeding $50,000 in that calendar year. Penalties imposed for failure to report would be assessed and collected in the same manner as penalties imposed under current law for failure by exempt organizations to file certain information returns.

Database

The enrolled bill would require Treasury to make electronically filed notices of status and reports on expenditures and contributions available to the public on the Internet not later than 48 hours after they have been filed. Treasury would be required to make the entire database of notices and reports searchable by: (1) names, States, zip codes, custodians of records, directors, and general purposes of the organization; (2) entities related to the organizations; (3) contributors to the organizations; (4) employers of such organizations; (5) recipients of expenditures of the organizations; (6) ranges of contributors and expenditures; and (7) time periods of the notices and reports. This database would have to be downloadable. This provision would apply to reports required to be filed on or after June 30, 2003.

Conclusion and Recommendations

In its views letter, Treasury recommends approval of H.R. 5596, but notes that "it is unclear at this time whether the [Internal Revenue Service] will be able to meet all of the mandates imposed by the enrolled bill within the times prescribed. To do so will take a major effort, along with a redirection of scarce resources."

We join the Treasury in recommending approval of H.R. 5596, which passed both the House and the Senate by unanimous consent.

ME Daniels, Jr

Mitchell E. Daniels, Jr.
Director

Enclosures

Attachment

Other Provisions of H.R. 5596

Initial Notice of Status. Current law provides that if an organization fails to meet the notice of status filing requirements, its taxable income is computed by taking into account what would otherwise be exempt function income. The enrolled bill would specify that exempt function income does not have to be segregated to be taken into account for this purpose. This provision would apply to failures occurring on or after the date of enactment of the enrolled bill.

The enrolled bill would eliminate the requirement that the notice of status be filed in writing. The requirement for filing electronically would remain in effect.

Material Changes to Information in Notice of Status. The enrolled bill would require an organization filing a notice of status to file a new notice whenever there is a material change to information provided in the notice. The new notice would have to be filed no later than 30 days after the material change. An organization failing to file a new notice would no longer be treated as a section 527 organization and its exempt function income would be taken into account in determining taxable income from the date of the material change until a new notice is filed. This provision would be effective for material changes that occur on or after the date of enactment of the enrolled bill. However, if a material change occurs during the 30-day period beginning on the date of enactment, a new notice would not be required to be filed before the later of: (1) 30 days after the date of the material change; or (2) 45 days after the date of enactment.

Notification of Interaction of Reporting Requirements. The enrolled bill would require Treasury, in consultation with the Federal Election Commission, to publicize the effects of the provisions of the enrolled bill and the interaction of the requirements to file a notification or report under section 527 and reports under the Federal Election Campaign Act.

Application of Fraud Penalty. The enrolled bill would provide that any entity required, pursuant to section 527, to furnish any information to the Secretary (or any other person) who willfully furnishes information that he or she knows to be fraudulent or false as to any material matter would be subject to a fine of not more than $10,000 (or $50,000 in the case of a corporation) or imprisonment of not more than one year or both.

Waiver of Tax and Penalties. The enrolled bill would authorize Treasury to waive any tax assessed after June 30, 2000, on an organization for failure to comply with the notification requirements on a showing that the failure was due to a reasonable cause and not willful neglect. Also, the enrolled bill would authorize Treasury to waive any penalties imposed after June 30, 2000, for failure to disclose contributions and expenditures on a showing that the failure was due to a reasonable cause and not willful neglect.

Effect of Amendments on Existing Disclosures. Notices, reports, or returns that were required to be filed with Treasury before the date of enactment of the enrolled bill and that were disclosed by Treasury consistent with the law in effect at the times of disclosure would remain public, even if the retroactive effective dates of certain parts of the enrolled bill mean that a notice or report was not required to have been filed.

SS/ RM NO. 521802

WHITE HOUSE STAFFING MEMORANDUM

Date: 10-29-02, 11:00 PM ACTION / CONCURRENCE / COMMENT DUE BY: 10-30-02, 1:00 PM

Subject: ENROLLED BILL H.R. 5596, MODIFIED DISCLOSURE REQUIREMENTS FOR POLITICAL ORGANIZATIONS

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☑	☐	HUBBARD	☐	☐
CARD	☑	☐	IRASTORZA	☐	☐
BARTLETT	☑	☐	JOHNSON	☐	☐
BLAKEMAN	☐	☐	LINDSEY	☑	☐
BOLTEN	☑	☐	MARBURGER	☐	☐
BRIDGELAND	☐	☐	MIERS	☐	☐
CALIO	☑	☐	RICE	☐	☐
CONNAUGHTON	☐	☐	RIDGE	☐	☐
DANIELS	☐	☑	ROVE	☑	☐
FLEISCHER	☐	☑	SPELLINGS	☑	☐
GERSON	☐	☑	CLERK	☐	☑
GONZALES	☑	☐	______	☐	☐
HAGIN	☐	☐	______	☐	☐
HAWKINS	☑	☐	______	☐	☐

REMARKS:
PLEASE SEND COMMENTS TO JIM JUKES, EXT. 53458, FAX 56148, NO LATER THAN 1:00 PM WEDNESDAY, 10-30-02, WITH COPY TO STAFF SECRETARY. THANK YOU.

6 K

RESPONSE:

cc Jay
Diana
Teri

Harriet E. Miers
Assistant to the President
and Staff Secretary
Ext. 62702

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

October 29, 2002

THE DIRECTOR

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Bill H.R. 5596 - Modified Disclosure Requirements for Political Organizations
Sponsors - Rep. Brady (R) Texas and 5 cosponsors

Last Day for Action

November 4, 2002 - Monday

Purpose

Amends and exempts State and local political organizations from certain Internal Revenue Code requirements applicable to political organizations.

Agency Recommendations

Office of Management and Budget	Approval
Department of the Treasury	Approval
Department of Labor	No objection (Informally)
Department of the Justice	No comment (Informally)

Discussion

Section 527 of the Internal Revenue Code provides a limited tax-exempt status to "political organizations," defined as a party, committee, association, fund, or other entity organized and operated primarily for the purpose of directly or indirectly accepting contributions or making expenditures for an "exempt function." Exempt functions include influencing or attempting to influence the selection, nomination, election, or appointment of any individual to any Federal, State, or local public office or political organization office, or the election of Presidential or Vice-Presidential electors. Section 527 organizations are generally exempt from taxation on their "exempt function income," i.e., contributions, membership dues, proceeds from political fundraising, and other income related to the exempt functions.

Major provisions of the enrolled bill are described below. Other provisions of the enrolled bill are described in an Attachment.

Exemptions for State and Local Organizations

Initial Notice of Status Exemptions. To be treated as a section 527 organization, an organization is required, no later than 24 hours after the date on which it is established, to file with Treasury, electronically and in writing, an initial notice of status stating the purpose of the organization. The enrolled bill would exempt from the notice of status filing requirements any political organization that is a political committee of a State or local candidate, or a State or local committee of a political party. This provision would take effect as if it were included in P.L. 106-230, enacted on July 1, 2000, which established requirements for section 527 organizations to disclose their political activities. The Treasury Department notes that P.L. 106-230 includes an exemption for certain Federal-level political organizations, and that the failure to exempt State and local political organizations "created considerable confusion."

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One Hundred Seventh Congress of the United States of America

AT THE SECOND SESSION

Begun and held at the City of Washington on Wednesday, the twenty-third day of January, two thousand and two

An Act

To amend section 527 of the Internal Revenue Code of 1986 to eliminate notification and return requirements for State and local party committees and candidate committees and avoid duplicate reporting by certain State and local political committees of information required to be reported and made publicly available under State law, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXEMPTION FOR CERTAIN STATE AND LOCAL POLITICAL COMMITTEES FROM NOTIFICATION REQUIREMENTS.

(a) EXEMPTION FROM NOTIFICATION REQUIREMENTS.—Paragraph (5) of section 527(i) of the Internal Revenue Code of 1986 (relating to organizations must notify Secretary that they are section 527 organizations) is amended by striking "or" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", or", and by adding at the end the following:

"(C) which is a political committee of a State or local candidate or which is a State or local committee of a political party.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in the amendments made by Public Law 106–230.

SEC. 2. EXEMPTION FOR CERTAIN STATE AND LOCAL POLITICAL COMMITTEES FROM REPORTING REQUIREMENTS.

(a) IN GENERAL.—Section 527(j)(5) of the Internal Revenue Code of 1986 (relating to coordination with other requirements) is amended by redesignating subparagraphs (C), (D), and (E) as subparagraphs (D), (E), and (F), respectively, and by inserting after subparagraph (B) the following new subparagraph:

"(C) to any organization which is a qualified State or local political organization,".

(b) QUALIFIED STATE OR LOCAL POLITICAL ORGANIZATION.—Subsection (e) of section 527 of the Internal Revenue Code of 1986 (relating to other definitions) is amended by adding at the end the following new paragraph:

"(5) QUALIFIED STATE OR LOCAL POLITICAL ORGANIZATION.—

"(A) IN GENERAL.—The term 'qualified State or local political organization' means a political organization—

"(i) all the exempt functions of which are solely for the purposes of influencing or attempting to influence the selection, nomination, election, or appointment

(A) IN GENERAL.—The amendments made by subsection (g) shall apply to material changes on or after the date of the enactment of this Act.

(B) TRANSITION RULE.—In the case of a material change occurring during the 30-day period beginning on the date of the enactment of this Act, a notice under section 527(i) of the Internal Revenue Code of 1986 (as amended by this Act) shall not be required to be filed under such section before the later of—

(i) 30 days after the date of such material change, or

(ii) 45 days after the date of the enactment of this Act.

SEC. 7. EFFECT OF AMENDMENTS ON EXISTING DISCLOSURES.

Notices, reports, or returns that were required to be filed with the Secretary of the Treasury before the date of the enactment of the amendments made by this Act and that were disclosed by the Secretary of the Treasury consistent with the law in effect at the time of disclosure shall remain subject on and after such date to the disclosure provisions of section 6104 of the Internal Revenue Code of 1986.

Speaker of the House of Representatives. pro tempore.

~~*Vice President of the United States and*~~
President of the Senate. pro tempore

APPROVED

NOV - 2 2002