

## Part III - Administrative, Procedural, and Miscellaneous

### Payments from the Presidential Election Campaign Fund

#### Notice 2007-96

This notice supersedes Notice 96-13, 1996-1 C.B. 366, and announces that the Department of the Treasury (the Treasury) will change the procedures for making payments from the Presidential Primary Matching Payment Account (the Account). This notice also announces that the Treasury intends to modify the regulations under § 9037 of the Internal Revenue Code (26 U.S.C. § 9037 (2000)) to reflect the changed procedures.

Section 9006(a) established the Presidential Election Campaign Fund (the Fund) on the books of the U.S. Treasury. Section 9006(a) requires the Secretary to transfer to the Fund, from time to time, an amount equal to the individual taxpayer designations for the Fund under § 6096. See § 701.9006-1(a) of the Financing of Presidential Election Campaigns Regulations (26 C.F.R. § 701.9006-1(a) (2007)).

Section 701.9006-1(a) requires the Secretary to determine the amounts designated by individuals for the Fund at least once a month.

Section 9037(a) requires the Secretary to maintain within the Fund a separate account known as the Presidential Primary Matching Payment Account. The Secretary is required to deposit into the Account amounts from the Fund after determining that there are amounts available and set aside in the Fund to make the payments described

in § 9006 (payments for the general election) and § 9008 (payments for the presidential nominating conventions). The amounts in the Account are for presidential primary candidates who are certified for payments by the Federal Election Commission (the Commission).

Section 702.9037-2(a) provides that, except in the case of a shortfall described in § 702.9037-2(c), promptly after the end of each calendar month, but not before the beginning of the calendar year of a presidential election, the Secretary shall pay the amounts certified by the Commission in the preceding calendar month from the Account to the primary candidates.

Section 702.9037-2(c) provides that if the amount certified by the Commission for primary candidates in a calendar month exceeds the balance in the Account on the last day of the calendar month, the amount paid to a candidate for that month from the Account is determined by multiplying the amount certified by the Commission for the candidate during that month by the ratio of the balance in the Account on the last day of the calendar month over the total amount certified by the Commission for all the candidates during that month. Any amount certified by the Commission, but not paid to a candidate because of the operation of this shortfall rule, is treated as an amount certified by the Commission for that candidate during the succeeding calendar month. Section 702.9037-2(d) provides an example illustrating the shortfall rule of § 702.9037-2(c).

Notice 96-13 announced a change in the payment procedures contained in § 702.9037-2(c). The notice states that when the Account is in a shortfall position, the

Secretary may make an additional payment between regular payment dates promptly after funds are available. Such payment is determined by multiplying the amount certified by the Commission for the candidate in month 1 by the ratio of the balance in the Account (but not to exceed the shortfall) on the 15th day of month 2 (or the first business day thereafter if the 15th is not a business day) over the total amount certified by the Commission for all the candidates in month 1.

Section 9037(b) contemplates that the Secretary should pay certified primary candidates as promptly as possible. Therefore, the Treasury will change the procedures, currently described in § 702.9037-2 and Notice 96-13, for making payments from the Account. Under the changed procedures, the Secretary may make payments as soon as funds become available in the Account rather than monthly (or, in the event of a shortfall, with an additional payment on the 15<sup>th</sup> of the next month, as required by Notice 96-13).

The Treasury intends to amend the regulations in § 702.9037-2 accordingly. As provided in Notice 96-13, the effective date of these amendments to the regulations will be February 2, 1996.

#### EFFECT ON OTHER DOCUMENTS

Notice 96-13 is superseded.

#### DRAFTING INFORMATION

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