

Part III

Administrative, Procedural, and Miscellaneous

26 C.F.R. 601-105. Examination of returns and claims for refund, credit or abatement; determination of correct tax liability.
(Also Part I, § 527.)

Rev. Proc. 2007-27

SECTION 1. BACKGROUND

.01 Section 527 of the Internal Revenue Code provides for the tax treatment of all political organizations. Section 527(e) provides that a political organization is an organization (whether or not incorporated) organized and operated primarily for the purpose of accepting contributions or making expenditures to influence, or attempt to influence, the selection, nomination, election, or appointment of any individual to any Federal, State, or local public office, office in a political party or the election of Presidential or Vice-Presidential electors.

.02 Under § 527(i), certain political organizations must file Form 8871, *Political Organization Notice of 527 Status*, within 24 hours of being established and within 30

days of any material change to information reported on Form 8871 to be treated as tax-exempt § 527 organizations. Until these political organizations file the form, their income (including income that would otherwise be treated as exempt function income) is subject to taxation pursuant to § 527(i)(4). See Section I of Rev. Rul. 2003-49, 2003-1 C.B. 903.

.03 Under § 527(j), certain tax-exempt political organizations must report periodically on Form 8872, *Political Organization Report of Contributions and Expenditures*, information about contributions received and expenditures made by the organizations. These reports are due either monthly or semi-annually in odd-numbered years and either monthly or quarterly in even-numbered years. In addition, certain pre- and post-election reports are required. Information required to be reported includes the names and addresses of contributors, and, for individual contributors, their occupations and employers. A tax-exempt political organization that fails to include the required information is liable under § 527(j)(1) for the payment of an amount equal to the amount of the contribution or expenditure multiplied by the highest corporate tax rate (currently 35%). See Section II of Rev. Rul. 2003-49, 2003-1 C.B. 903.

.04 Section 527(l) provides that the Internal Revenue Service may waive all or any portion of the tax assessed due to a failure to comply with § 527(i) or the amount imposed under § 527(j) if the failure was due to reasonable cause and not due to willful neglect. In establishing reasonable cause, the key factor to consider is the extent of the organization's effort to obtain and report the required information. If the organization establishes to the Service's satisfaction that there are significant mitigating factors with

respect to the failure, the failure arose from events beyond the organization's control, or the organization has exercised the appropriate level of due diligence to obtain and report the required information, waiver is appropriate.

.04 Political organizations have requested guidance on what steps a political organization needs to take to establish that its failure to disclose required information was due to reasonable cause and not due to willful neglect.

SECTION 2. FORM 8872 SCHEDULE A SAFE HARBOR

.01 This revenue procedure provides a "safe harbor" for establishing that failure to report certain contributor information on Form 8872 was due to reasonable cause and not due to willful neglect, and therefore qualifies for relief under § 527(l)(2) of the Code. The safe harbor will apply only to those contributions for which a political organization establishes that it meets the requirements of the safe harbor. For example, if a political organization fails to report required information with respect to contribution X and contribution Y on a Form 8872, and the political organization meets the safe harbor criteria for contribution X, but not contribution Y, the organization qualifies for relief pursuant to the safe harbor with respect to contribution X, but not contribution Y. In addition, the safe harbor will not apply in situations where the organization fails to report the name of the contributor on Form 8872 by the time prescribed. For each contribution for which the requirements of the safe harbor are satisfied, the Service will waive the full amount imposed under section 527(j) with respect to the contribution.

.02 A failure to report the address of a contributor and, if the contributor is an individual, the occupation and employer of the contributor will be considered to be due to reasonable cause and not due to willful neglect provided that all of the following requirements are met:

- (1) All fundraising solicitations by (or on behalf of) the tax-exempt political organization contain a clear request (in a conspicuous and easily recognizable format) for the contributor's address and, if the contributor is an individual, the contributor's occupation and employer (consistent with the instructions for Form 8872) and include a statement that the political organization is subject to Federal taxes and penalties if it fails to disclose this information to the Service. A fundraising solicitation includes any solicitation of contributions or gifts in written (including electronically such as via the internet or by facsimile or email) or printed form, by television or radio, or by telephone.
- (2) For each contribution for which the contributor has not provided the required information, such as the contributor's address, occupation and employer, the tax-exempt political organization makes a written (including electronically such as via the internet or by facsimile or email) request, or an oral request memorialized in writing, to the contributor for the required information within 30 days of receipt of the contribution. The information request may thank the contributor for the contribution, but must not include material on any other subject or an additional solicitation. Each information request must include a

statement that the tax-exempt political organization is subject to Federal taxes and penalties if it fails to disclose this information to the Service. In addition, each information request that is not oral or electronic must include a pre-addressed return envelope or postcard. Each oral or electronic information request must include the mailing or Internet address to which the required information should be submitted instead of a pre-addressed return envelope or postcard.

- (3) If the contributor has not responded to the information request by the due date of the Form 8872 and in the tax-exempt political organization's records, including contributor records, fundraising records or previously filed Forms 8872, the tax-exempt political organization has information about the contributor that is requested by the Form 8872, the organization must report such information on the Form 8872.
- (4) If any missing or corrected contributor information is received after the contribution has been disclosed on Form 8872, the tax-exempt political organization files an amended Form 8872 including the additional information within 30 days of receipt of the information, unless the information is received less than 30 days and more than 2 business days before an election, in which case the tax-exempt political organization files an amended Form 8872 including the additional information no later than 2 business days before the election.

- (5) The tax-exempt political organization discloses all the required information on Forms 8872 with respect to at least 85 percent of the total dollar amount of contributions it received during the calendar year.
- (6) The political organization keeps contemporaneous records sufficient to substantiate that it has complied with subparagraphs (1) through (5) in this section.

.03 Even if a tax-exempt political organization does not meet the requirements of the safe harbor, the Service still may exercise its authority under section 527(l) if it determines that the failure is due to reasonable cause and not willful neglect.

SECTION 3. REQUEST FOR COMMENTS

.01 The Service is considering whether to publish additional guidance concerning the application of § 527(l) to a political organization that fails to file a completed Form 8871 or Form 8872 in the time and manner prescribed. The Service requests public comment concerning (1) the need for additional guidance and (2) circumstances in which such a failure should be deemed to be due to reasonable cause and not due to willful neglect. For example, under § 6724 and the regulations thereunder, a failure to comply with certain information reporting requirements is deemed to be due to reasonable cause and not due to willful neglect if the filer acted in a responsible manner and either there are significant mitigating factors with respect to the failure or the failure arose from events beyond the filer's control. The regulations under § 6724 provide examples of acting in a responsible manner, significant mitigating factors and events

beyond the organization's control. However, the Service recognizes that the reporting requirements under § 527 have significant public disclosure and timeliness concerns (particularly in relation to public disclosure prior to elections) that may differentiate them from other information reporting requirements. Thus, comments should address the following questions:

- (1) In applying § 527(l), how might the factors similar to those in the regulations under § 6724 be adapted for purposes of § 527(l)?
 - (a) Are there any significant mitigating factors that are unique to failures to file Form 8871 or Form 8872 in the time and manner prescribed?
 - (b) Are there any events beyond the political organization's control that are unique to failures to file Form 8871 or Form 8872 in the time and manner prescribed?
 - (c) Are there any factors unique to political organizations that should be considered in determining whether a political organization acted in a responsible manner, both before and after a failure to file Form 8871 or Form 8872 in the time and manner prescribed?
- (2) Are there any factors relevant to determining whether all or only a portion of the amounts assessed should be waived?
- (3) What documentation should the political organization maintain to establish that any failure to file Form 8871 or Form 8872 in the time and manner prescribed was due to reasonable cause and not due to willful neglect?
- (4) Are there factors that indicate relief under § 527(l) should not be granted?

.02 Public comments should be submitted in writing on or before July 2, 2007.

Comments should be sent to the following address:

Internal Revenue Service
SE:T:EO:RA:G (Rev. Proc. 2007-27)
P.O. Box 7604
Ben Franklin Station
Washington, DC 20044

Comments may be hand delivered to:

SE:T:EO:RA:G (Rev. Proc. 2007-27)
Courier's Desk
Internal Revenue Service
1111 Constitution Ave, NW
Washington, DC 20224

Comments may also be sent electronically via the Internet to

notice.comments@irs.counsel.treas.gov. Please include "Rev. Proc. 2007-27" in the subject line.

All comments will be available for public inspection.

SECTION 4. DRAFTING INFORMATION

The principal author of this notice is Judith E. Kindell of Exempt Organizations, Tax Exempt and Government Entities Division. For further information regarding this notice contact Judith E. Kindell at (202) 283-8964 (not a toll-free call).