

IRS BUREAUCRACY REDUCTION AND JUDICIAL REVIEW  
ACT

---

APRIL 13, 2015.—Committed to the Committee of the Whole House on the State of  
the Union and ordered to be printed

---

Mr. RYAN of Wisconsin, from the Committee on Ways and Means,  
submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 1295]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 1295) to amend the Internal Revenue Code of 1986 to improve the process for making determinations with respect to whether organizations are exempt from taxation under section 501(c)(4) of such Code, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

CONTENTS

	Page
I. SUMMARY AND BACKGROUND .....	3
A. Purpose and Summary .....	3
B. Background and Need for Legislation .....	4
C. Legislative History .....	4
II. EXPLANATION OF THE BILL .....	5
A. Require Section 501(c)(4) Organizations to Provide Notice of Formation (sec. 2 of the bill, secs. 6033 and 6652 of the Code, and new sec. 506 of the Code) .....	5
B. Declaratory Judgments for Section 501(c)(4) Organizations (sec. 3 of the bill and sec. 7428 of the Code) .....	10
III. VOTES OF THE COMMITTEE .....	11
IV. BUDGET EFFECTS OF THE BILL .....	12
A. Committee Estimate of Budgetary Effects .....	12

B. Statement Regarding New Budget Authority and Tax Expenditures Budget Authority .....	13
C. Cost Estimate Prepared by the Congressional Budget Office .....	13
<b>V. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE .....</b>	<b>15</b>
A. Committee Oversight Findings and Recommendations .....	15
B. Statement of General Performance Goals and Objectives .....	15
C. Information Relating to Unfunded Mandates .....	15
D. Applicability of House Rule XXI 5(b) .....	15
E. Tax Complexity Analysis .....	15
F. Congressional Earmarks, Limited Tax Benefits, and Limited Tariff Benefits .....	16
G. Duplication of Federal Programs .....	16
H. Disclosure of Directed Rule Makings .....	16
<b>VI. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED</b>	<b>16</b>
A. Text of Existing Law Amended or Repealed by the Bill, as Reported .....	16
B. Changes in Existing Law Proposed by the Bill, as Reported .....	33
<b>VII. ADDITIONAL VIEWS .....</b>	<b>52</b>

The amendment is as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “IRS Bureaucracy Reduction and Judicial Review Act”.

**SEC. 2. ORGANIZATIONS REQUIRED TO NOTIFY SECRETARY OF INTENT TO OPERATE AS 501(c)(4).**

(a) IN GENERAL.—Part I of subchapter F of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

**“SEC. 506. ORGANIZATIONS REQUIRED TO NOTIFY SECRETARY OF INTENT TO OPERATE AS 501(c)(4).**

“(a) IN GENERAL.—An organization described in section 501(c)(4) shall, not later than 60 days after the organization is established, notify the Secretary (in such manner as the Secretary shall by regulation prescribe) that it is operating as such.

“(b) CONTENTS OF NOTICE.—The notice required under subsection (a) shall include the following information:

“(1) The name, address, and taxpayer identification number of the organization.

“(2) The date on which, and the State under the laws of which, the organization was organized.

“(3) A statement of the purpose of the organization.

“(c) ACKNOWLEDGMENT OF RECEIPT.—Not later than 60 days after receipt of such a notice, the Secretary shall send to the organization an acknowledgment of such receipt.

“(d) EXTENSION FOR REASONABLE CAUSE.—The Secretary may, for reasonable cause, extend the 60-day period described in subsection (a).

“(e) USER FEE.—The Secretary shall impose a reasonable user fee for submission of the notice under subsection (a).

“(f) REQUEST FOR DETERMINATION.—Upon request by an organization to be treated as an organization described in section 501(c)(4), the Secretary may issue a determination with respect to such treatment. Such request shall be treated for purposes of section 6104 as an application for exemption from taxation under section 501(a).”

(b) SUPPORTING INFORMATION WITH FIRST RETURN.—Section 6033(f) of such Code is amended—

    (1) by striking the period at the end and inserting “, and”;

    (2) by striking “include on the return required under subsection (a) the information” and inserting the following: “include on the return required under subsection (a)—

        “(1) the information”, and

        (3) by adding at the end the following new paragraph:

        “(2) in the case of the first such return filed by such an organization after submitting a notice to the Secretary under section 506(a), such information as the Secretary shall by regulation require in support of the organization’s treatment as an organization described in section 501(c)(4).”.

(c) FAILURE TO FILE INITIAL NOTIFICATION.—Section 6652(c) of such Code is amended by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively, and by inserting after paragraph (3) the following new paragraph:

**"(4) NOTICES UNDER SECTION 506.—**

"(A) PENALTY ON ORGANIZATION.—In the case of a failure to submit a notice required under section 506(a) (relating to organizations required to notify Secretary of intent to operate as 501(c)(4)) on the date and in the manner prescribed therefor, there shall be paid by the organization failing to so submit \$20 for each day during which such failure continues, but the total amount imposed under this subparagraph on any organization for failure to submit any one notice shall not exceed \$5,000.

"(B) MANAGERS.—The Secretary may make written demand on an organization subject to penalty under subparagraph (A) specifying in such demand a reasonable future date by which the notice shall be submitted for purposes of this subparagraph. If such notice is not submitted on or before such date, there shall be paid by the person failing to so submit \$20 for each day after the expiration of the time specified in the written demand during which such failure continues, but the total amount imposed under this subparagraph on all persons for failure to submit any one notice shall not exceed \$5,000."

(d) CLERICAL AMENDMENT.—The table of sections for part I of subchapter F of chapter 1 of such Code is amended by adding at the end the following new item: "Sec. 506. Organizations required to notify Secretary of intent to operate as 501(c)(4)."

(e) LIMITATION.—Notwithstanding any other provision of law, any fees collected pursuant to section 506(e) of the Internal Revenue Code of 1986, as added by subsection (a), shall not be expended by the Secretary of the Treasury or the Secretary's delegate unless provided by an appropriations Act.

**(f) EFFECTIVE DATE.—**

(1) IN GENERAL.—The amendments made by this section shall apply to organizations which are described in section 501(c)(4) of the Internal Revenue Code of 1986 and organized after the date of the enactment of this Act.

(2) CERTAIN EXISTING ORGANIZATIONS.—In the case of any other organization described in section 501(c)(4) of such Code, the amendments made by this section shall apply to such organization only if, on or before the date of the enactment of this Act—

(A) such organization has not applied for a written determination of recognition as an organization described in section 501(c)(4) of such Code, and

(B) such organization has not filed at least one annual return or notice required under subsection (a)(1) or (i) (as the case may be) of section 6033 of such Code.

In the case of any organization to which the amendments made by this section apply by reason of the preceding sentence, such organization shall submit the notice required by section 506(a) of such Code, as added by this Act, not later than 180 days after the date of the enactment of this Act.

**SEC. 3. DECLARATORY JUDGMENTS FOR 501(c)(4) ORGANIZATIONS.**

(a) IN GENERAL.—Section 7428(a)(1) of the Internal Revenue Code of 1986 is amended by striking "or" at the end of subparagraph (C) and by inserting after subparagraph (D) the following new subparagraph:

"(E) with respect to the initial classification or continuing classification of an organization described in section 501(c)(4) which is exempt from tax under section 501(a), or".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to pleadings filed after the date of the enactment of this Act.

**I. SUMMARY AND BACKGROUND****A. PURPOSE AND SUMMARY**

H.R. 1295, reported by the Committee on Ways and Means, provides for a streamlined recognition process for organizations claiming tax exemption under section 501(c)(4) of the Internal Revenue Code (the "Code"). The new process would require an organization to notify the Internal Revenue Service ("IRS") within 60 days of formation that it has begun operations as a tax-exempt organization under section 501(c)(4). The IRS would be required to provide an acknowledgement to the new organization within 60 days of receiving the notification. New exempt organizations would be expected to provide information supporting the exemption with their

first annual information return (Form 990). An organization that nonetheless wished to have an affirmative determination of its exempt status may request such a ruling, subject to an appropriate fee. The new recognition process generally would be effective for organizations seeking exemption under section 501(c)(4) after the date of enactment. The bill also permits organizations claiming exemption under section 501(c)(4) to seek Federal judicial review in cases in which the IRS challenges the organization's initial or continuing exemption.

#### B. BACKGROUND AND NEED FOR LEGISLATION

Organizations seeking exemption under section 501(c)(3)—typically public charities and private foundations—generally are required to seek formal recognition of their tax-exempt status by submitting an application to the IRS. Organizations seeking exemption under other Code sections (e.g., social welfare organizations claiming exemption under section 501(c)(4)) may submit a formal application for exemption, but are not required to do so. Through its investigation of the IRS targeting of certain social welfare organizations, the Committee learned that the IRS spends approximately 10,000 hours a year processing entirely voluntary section 501(c)(4) applications. This is the same process that allowed the IRS to subject applicants to extraordinary delays and inappropriate questions, including demands for donor lists. The bill streamlines the recognition process for section 501(c)(4) organizations, while preserving the option for an organization to seek a formal determination. In addition, under current law and practice, if the IRS determines at any time—during the application process or later under exam—that an organization does not qualify under section 501(c)(4), the organization has limited recourse. The bill provides the opportunity for judicial review of adverse IRS determinations, which has long been available to section 501(c)(3) organizations.

#### C. LEGISLATIVE HISTORY

##### *Background*

H.R. 1295 was introduced on March 4, 2015, and was referred to the Committee on Ways and Means.

##### *Committee action*

The Committee on Ways and Means marked up H.R. 1295, the “IRS Bureaucracy Reduction and Judicial Review Act,” on March 25, 2015, and ordered the bill, as amended, favorably reported (with a quorum being present).

##### *Committee hearings*

The need for reform of the recognition process for organizations seeking exemption under section 501(c)(4) was discussed during multiple Committee hearings during the 113th Congress:

- Full Committee Hearing on IRS Targeting Conservative Groups (May 17, 2013).
- Full Committee Hearing Organizations Targeted by Internal Revenue Service for Their Personal Beliefs (June 4, 2013).
- Full Committee Hearing on the Status of Internal Revenue Service’s Review of Taxpayer Targeting Practices (June 27, 2013).

- Oversight Subcommittee Hearing on the IRS Exempt Organizations Division Post-U.S. Treasury Inspector General for Tax Administration Audit Report (September 18, 2013).
- Oversight Subcommittee Hearing with IRS Commissioner Koskinen (February 5, 2014).
- Oversight Subcommittee Hearing on the IRS Operations and the 2014 Tax Return Filing Season (May 7, 2014).
- Full Committee Hearing with IRS Commissioner Koskinen (June 20, 2014).

## II. EXPLANATION OF THE BILL

### A. REQUIRE SECTION 501(c)(4) ORGANIZATIONS TO PROVIDE NOTICE OF FORMATION (SEC. 2 OF THE BILL, SECS. 6033 AND 6652 OF THE CODE, AND NEW SEC. 506 OF THE CODE)

#### PRESENT LAW

##### *Section 501(c)(4) organizations*

Section 501(c)(4) provides tax exemption for civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or certain local associations of employees, provided that no part of the net earnings of the entity inures to the benefit of any private shareholder or individual. An organization is operated exclusively for the promotion of social welfare if it is engaged primarily in promoting in some way the common good and general welfare of the people of a community.<sup>1</sup> The promotion of social welfare does not include direct or indirect participation or intervention in political campaigns on behalf of or in opposition to any candidate for public office; however, social welfare organizations are permitted to engage in political activity so long as the organization remains engaged primarily in activities that promote social welfare. The lobbying activities of a social welfare organization generally are not limited. An organization is not operated primarily for the promotion of social welfare if its primary activity is operating a social club for the benefit, pleasure, or recreation of its members, or is carrying on a business with the general public in a manner similar to organizations that are operated for profit.

##### *Application for tax exemption*

##### *Section 501(c)(3) organizations*

Section 501(c)(3) organizations (with certain exceptions) are required to seek formal recognition of tax-exempt status by filing an application with the IRS (Form 1023).<sup>2</sup> In response to the application, the IRS issues a determination letter or ruling either recognizing the applicant as tax-exempt or not. Certain organizations are not required to apply for recognition of tax-exempt status in order to qualify as tax-exempt under section 501(c)(3) but may do so. These organizations include churches, certain church-related organizations, organizations (other than private foundations) the gross receipts of which in each taxable year are normally not more than \$5,000, and organizations (other than private foundations)

<sup>1</sup> Treas. Reg. sec. 1.501(c)(4)-1(a)(2).

<sup>2</sup> See sec. 508(a). Unless otherwise stated all section references are to the Internal Revenue Service Code of 1986, as amended (the "Code").

subordinate to another tax-exempt organization that are covered by a group exemption letter.

A favorable determination by the IRS on an application for recognition of tax-exempt status will be retroactive to the date that the section 501(c)(3) organization was created if it files a completed Form 1023 within 15 months of the end of the month in which it was formed.<sup>3</sup> If the organization does not file Form 1023 or files a late application, it will not be treated as tax-exempt under section 501(c)(3) for any period prior to the filing of an application for recognition of tax exemption.<sup>4</sup> Contributions to section 501(c)(3) organizations that are subject to the requirement that the organization apply for recognition of tax-exempt status generally are not deductible from income, gift, or estate tax until the organization receives a determination letter from the IRS.<sup>5</sup>

Information required on Form 1023 includes, but is not limited to: (1) a detailed statement of actual and proposed activities; (2) compensation and financial information regarding officers, directors, trustees, employees, and independent contractors; (3) a statement of revenues and expenses for the current year and the three preceding years (or for the years of the organization's existence, if less than four years); (4) a balance sheet for the current year; (5) a description of anticipated receipts and contemplated expenditures; (6) a copy of the articles of incorporation, trust document, or other organizational or enabling document; (7) organization bylaws (if any); and (8) information about previously filed Federal income tax and exempt organization returns, if applicable.

A favorable determination letter issued by the IRS will state that the application for recognition of tax exemption and supporting documents establish that the organization submitting the application meets the requirements of section 501(c)(3) and will classify (as either an adverse or definitive ruling) the organization as either a public charity or a private foundation.

Organizations that are classified as public charities (or as private operating foundations) and not as private nonoperating foundations may cease to satisfy the conditions that entitled the organization to such status. The IRS makes an initial determination of public charity or private foundation status (either a definitive ruling, or an advance ruling generally effective for five years and then reviewed again by the IRS) that is subsequently monitored by the IRS through annual return filings. The IRS periodically announces in the Internal Revenue Bulletin a list of organizations that have failed to establish, or have been unable to maintain, their status as public charities or as private operating foundations, and that become private nonoperating foundations.

If the IRS denies an organization's application for recognition of exemption under section 501(c)(3), the organization may seek a de-

<sup>3</sup> Pursuant to Treas. Reg. sec. 301.9100-2(a)(2)(iv), organizations are allowed an automatic 12-month extension as long as the application for recognition of tax exemption is filed within the extended, *i.e.*, 27-month, period. The IRS also may grant an extension beyond the 27-month period if the organization is able to establish that it acted reasonably and in good faith and that granting relief will not prejudice the interests of the government. Treas. Reg. secs. 301.9100-1 and 301.9100-3.

<sup>4</sup> Treas. Reg. sec. 1.508-1(a)(1).

<sup>5</sup> Sec. 508(d)(2)(B). Contributions made prior to receipt of a favorable determination letter may be deductible prior to the organization's receipt of such favorable determination letter if the organization has timely filed its application to be recognized as tax-exempt. Treas. Reg. secs. 1.508-1(a) and 1.508-2(b)(1)(i)(b).

claratory judgment regarding its tax status.<sup>6</sup> Prior to utilizing the declaratory judgment procedure, the organization must have exhausted all administrative remedies available to it within the IRS.

*Other section 501(c) organizations*

Most section 501(c) organizations—including organizations described within sections 501(c)(4) (social welfare organizations, etc.), 501(c)(5) (labor organizations, etc.), or 501(c)(6) (business leagues, etc.)—are not required to provide notice to the Secretary that they are requesting recognition of exempt status. Rather, organizations are exempt under these provisions if they satisfy the requirements applicable to such organizations. However, in order to obtain certain benefits such as public recognition of tax-exempt status, exemption from certain State taxes, and nonprofit mailing privileges, such organizations voluntarily may request a formal recognition of exempt status by filing a Form 1024.

If such an organization voluntarily requests a determination letter by filing Form 1024 within 27 months of the end of the month in which it was formed, its determination of exempt status, once provided, generally will be effective as of the organization's date of formation.<sup>7</sup> If, however, the organization files Form 1024 after the 27-month deadline has passed, its exempt status will be formally recognized only as of the date the organization filed Form 1024.

The declaratory judgment process available to organizations seeking exemption under section 501(c)(3) is not available to organizations seeking exemption under other subsections of the Code, including sections 501(c)(4), 501(c)(5), and 501(c)(6).

*Revocation (and suspension) of exempt status*

An organization that has received a favorable tax-exemption determination from the IRS generally may continue to rely on the determination as long as “there are no substantial changes in the organization's character, purposes, or methods of operation.”<sup>8</sup> A ruling or determination letter concluding that an organization is exempt from tax may, however, be revoked or modified: (1) by notice from the IRS to the organization to which the ruling or determination letter was originally issued; (2) by enactment of legislation or ratification of a tax treaty; (3) by a decision of the United States Supreme Court; (4) by issuance of temporary or final Regulations by the Treasury Department; (5) by issuance of a revenue ruling, a revenue procedure, or other statement in the Internal Revenue Bulletin; or (6) automatically, in the event the organization fails to file a required annual return or notice for three consecutive years.<sup>9</sup> A revocation or modification of a determination letter or ruling may be retroactive if, for example, there has been a change in the applicable law, the organization omitted or misstated a material fact, or

---

<sup>6</sup> Sec. 7428.

<sup>7</sup> Rev. Proc. 2013-9, 2013-2 I.R.B. 255. Prior to the issuance of Revenue Procedure 2013-9 in early 2013, an organization that filed an application for exemption on Form 2014 generally could obtain a determination that it was exempt as of its date of formation, regardless of when it filed Form 1024.

<sup>8</sup> Treas. Reg. sec. 1.501(a)-1(a)(2).

<sup>9</sup> Rev. Proc. 2013-9, 2013-2 I.R.B. 255.

the organization has operated in a manner materially different from that originally represented.<sup>10</sup>

The IRS generally issues a letter revoking recognition of an organization's tax-exempt status only after: (1) conducting an examination of the organization; (2) issuing a letter to the organization proposing revocation; and (3) allowing the organization to exhaust the administrative appeal rights that follow the issuance of the proposed revocation letter. In the case of a section 501(c)(3) organization, the revocation letter immediately is subject to judicial review under the declaratory judgment procedures of section 7428. To sustain a revocation of tax-exempt status under section 7428, the IRS must demonstrate that the organization no longer is entitled to exemption.

Upon revocation of tax-exemption or change in the classification of an organization (*e.g.*, from public charity to private foundation status), the IRS publishes an announcement of such revocation or change in the Internal Revenue Bulletin. Contributions made to organizations by donors who are unaware of the revocation or change in status ordinarily will be deductible if made on or before the date of publication of the announcement.

The IRS may suspend the tax-exempt status of an organization for any period during which an organization is designated or identified by U.S. authorities as a terrorist organization or supporter of terrorism.<sup>11</sup> Such an organization also is ineligible to apply for tax exemption. The period of suspension runs from the date the organization is first designated or identified to the date when all designations or identifications with respect to the organization have been rescinded pursuant to the law or Executive Order under which the designation or identification was made. During the period of suspension, no deduction is allowed for any contribution to a terrorist organization.

#### REASONS FOR CHANGE

In recent years, section 501(c)(4) organizations that file an application for recognition of exempt status have faced considerable delays in obtaining a determination from the IRS.<sup>12</sup> The Committee found that the IRS was spending thousands of hours each year developing such 501(c)(4) applications, which are voluntarily filed, while thousands of section 501(c)(3) applications, for which a determination is required, were not being expeditiously processed. The Committee further found that still other groups simply organized under section 501(c)(4) without providing notice to the IRS, a practice that is currently permitted under the Code. The Committee therefore believes it is desirable to eliminate the need for a section 501(c)(4) that desires written IRS acknowledgment of its exempt status to apply for a formal IRS determination by requiring all organizations organizing under the section to provide the IRS with notice of existence and requiring the IRS to provide timely acknowledgment of that notice.

---

<sup>10</sup>*Ibid.*

<sup>11</sup> Sec. 501(p) (enacted by Pub. L. No. 108-121, sec. 108(a), effective for designations made before, on, or after November 11, 2003).

<sup>12</sup> See Treasury Inspector General for Tax Administration, "Inappropriate Criteria Were Used to Identify Tax-Exempt Applications for Review" (May 14, 2013), Reference Number: 2013-10-053.

## EXPLANATION OF PROVISION

Under the provision, an organization described in section 501(c)(4) must provide to the Secretary notice of its formation and intent to operate as such an organization, in such manner as the Secretary may prescribe. The notice, together with a reasonable user fee in an amount to be established by the Secretary, must be provided no later than 60 days following the organization's establishment and must include the following information: (1) the name, address, and taxpayer identification number of the organization; (2) the date on which, and the State under the laws of which, the organization was organized; and (3) a statement of the purpose of the organization. The Secretary may extend the 60-day deadline for reasonable cause. Any such fees collected may not be expended by the Secretary unless provided by an appropriations Act. Within 60 days of receipt of a notice of an organization's formation and intent to operate as an organization described in section 501(c)(4), the Secretary shall issue to the organization an acknowledgment of the notice. The notice and receipt are subject to the disclosure requirements of section 6104.

The provision amends section 6652(c) (which provides for penalties in the event of certain failures to file an exempt organization return or disclosure) to impose penalties for failure to file the notice required under the proposal. An organization that fails to file a notice within 60 days of its formation (or, if an extension is granted for reasonable cause, by the deadline established by the Secretary) is subject to a penalty equal to \$20 for each day during which the failure occurs, up to a maximum of \$5,000. In the event such a penalty is imposed, the Secretary may make a written demand on the organization specifying a date by which the notice must be provided. If any person fails to comply with such a demand on or before the date specified in the demand, a penalty of \$20 is imposed for each day the failure continues, up to a maximum of \$5,000.

With its first annual information return (Form 990, Form 990-EZ, or Form 990-N) filed after providing the notice described above, a section 501(c)(4) organization must provide such information as the Secretary may require, and in the form prescribed by the Secretary, to support its qualification as an organization described in section 501(c)(4). The Secretary is not required to issue a determination letter following the organization's filing of the expanded first annual information return.

A section 501(c)(4) organization that desires additional certainty regarding its qualification as an organization described in section 501(c)(4) may file a request for a determination, together with the required user fee, with the Secretary. Such a request is in addition to, not in lieu of, filing the required notice described above. It is intended that such a request for a determination be submitted on a new form (separate from Form 1024, which may continue to be used by certain other organizations) that clearly states that filing such a request is optional. The request for a determination is treated as an application subject to public inspection and disclosure under sections 6104(a) and (d).

## EFFECTIVE DATE

The provision generally is effective for organizations organized after the date of enactment.

Organizations organized on or before the date of enactment, that have not filed an application for exemption (Form 1024) or annual information return on or before the date of enactment must provide the notice required under the provision within 180 days of the date of enactment.

**B. DECLARATORY JUDGMENTS FOR SECTION 501(c)(4)  
ORGANIZATIONS (SEC. 3 OF THE BILL AND SEC. 7428 OF THE CODE)**

## PRESENT LAW

In order for an organization to be granted tax exemption as a charitable entity described in section 501(c)(3), it must file an application for recognition of exemption with the IRS and receive a favorable determination of its status.<sup>13</sup> For most section 501(c)(3) organizations, eligibility to receive tax-deductible contributions similarly is dependent upon its receipt of a favorable determination from the IRS. In general, a section 501(c)(3) organization can rely on a determination letter or ruling from the IRS regarding its tax-exempt status, unless there is a material change in its character, purposes, or methods of operation. In cases where an organization violates one or more of the requirements for tax exemption under section 501(c)(3), the IRS generally may revoke an organization's tax exemption, notwithstanding an earlier favorable determination.

Present law authorizes an organization to seek a declaratory judgment regarding its tax-exempt status as a remedy if the IRS denies its application for recognition of exemption under section 501(c)(3), fails to act on such an application, or informs a section 501(c)(3) organization that it is considering revoking or adversely modifying its tax-exempt status.<sup>14</sup> The right to seek a declaratory judgment arises in the case of a dispute involving a determination by the IRS with respect to: (1) the initial qualification or continuing qualification of an organization as a charitable organization for tax exemption purposes or for charitable contribution deduction purposes; (2) the initial classification or continuing classification of an organization as a private foundation; (3) the initial classification or continuing classification of an organization as a private operating foundation; or (4) the failure of the IRS to make a determination with respect to (1), (2), or (3).<sup>15</sup> A "determination" in this context generally means a final decision by the IRS affecting the tax qualification of a charitable organization. Section 7428 vests jurisdiction over controversies involving such a determination in the U.S. District Court for the District of Columbia, the U.S. Court of Federal Claims, and the U.S. Tax Court.<sup>16</sup>

Prior to utilizing the declaratory judgment procedure, an organization must have exhausted all administrative remedies available to it within the IRS.<sup>17</sup> For the first 270 days after a request for a determination is made and before the IRS informs the organiza-

<sup>13</sup> Sec. 508(a).

<sup>14</sup> Sec. 7428.

<sup>15</sup> Sec. 7428(a)(1).

<sup>16</sup> Sec. 7428(a)(2).

<sup>17</sup> Sec. 7428(b)(2).

tion of its decision, an organization is deemed not to have exhausted its administrative remedies. If no determination is made during the 270-day period, the organization may initiate an action for declaratory judgment after the period has elapsed. If, however, the IRS makes an adverse determination during the 270-day period, an organization may immediately seek declaratory relief. The 270-day period does not begin with respect to applications for recognition of tax-exempt status until the date a substantially completed application is submitted.

Under present law, a non-charity (*i.e.*, an organization not described in section 501(c)(3)) may not seek a declaratory judgment with respect to an IRS determination regarding its tax-exempt status. In general, such an organization must petition the U.S. Tax Court for relief following the issuance of a notice of deficiency or pay any tax owed and file a refund action in Federal district court or the U.S. Court of Federal Claims.

#### REASONS FOR CHANGE

The Committee found that section 501(c)(4) organizations that receive an adverse determination or upon examination have their exempt status revoked have limited recourse. The Committee therefore believes it is desirable to allow a section 501(c)(4) organization to seek a declaratory judgment regarding its tax-exempt status from a court of law in the event it has exhausted its administrative remedies, using the same procedures that are already available to section 501(c)(3) charitable organizations.

#### EXPLANATION OF PROVISION

The provision extends the section 7428 declaratory judgment procedure to the initial determination or continuing classification of an organization as tax-exempt under section 501(a) as an organization described in section 501(c)(4) (*i.e.*, social welfare and certain other organizations).

#### EFFECTIVE DATE

The provision is effective for pleadings filed after the date of enactment.

### III. VOTES OF THE COMMITTEE

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the vote of the Committee on Ways and Means in its consideration of H.R. 1295, the “IRS Bureaucracy Reduction and Judicial Review Act,” on March 25, 2015.

The Chairman’s amendment in the nature of a substitute was adopted by a voice vote (with a quorum being present).

An amendment by Mr. Holding to the amendment in the nature of a substitute, requiring any fees collected pursuant to the bill be subject to appropriations, was adopted by a voice vote (with a quorum being present).

An amendment by Mr. McDermott to the amendment in the nature of a substitute, requiring 501(c)(4) organizations to indicate whether they plan to engage in certain political activity, was not

agreed to by a roll-call vote of 20 nays to 11 yeas (with a quorum being present).

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Ryan .....	.....	X	.....	Mr. Levin .....	.....	.....	.....
Mr. Johnson .....	.....	X	.....	Mr. Rangel .....	.....	.....	.....
Mr. Brady .....	.....	X	.....	Mr. McDermott .....	X	.....	.....
Mr. Nunes .....	.....	.....	.....	Mr. Lewis .....	X	.....	.....
Mr. Tiberi .....	.....	X	.....	Mr. Neal .....	X	.....	.....
Mr. Reichert .....	.....	X	.....	Mr. Becerra .....	X	.....	.....
Mr. Boustany .....	.....	X	.....	Mr. Doggett .....	X	.....	.....
Mr. Roskam .....	.....	X	.....	Mr. Thompson .....	X	.....	.....
Mr. Price .....	.....	.....	.....	Mr. Larson .....	X	.....	.....
Mr. Buchanan .....	.....	X	.....	Mr. Blumenauer .....	.....	.....	.....
Mr. Smith (NE) .....	.....	X	.....	Mr. Kind .....	X	.....	.....
Ms. Jenkins .....	.....	X	.....	Mr. Pascrell .....	X	.....	.....
Mr. Paulsen .....	.....	X	.....	Mr. Crowley .....	.....	.....	.....
Mr. Marchant .....	.....	X	.....	Mr. Davis .....	X	.....	.....
Ms. Black .....	.....	.....	.....	Ms. Sanchez .....	X	.....	.....
Mr. Reed .....	.....	X	.....				
Mr. Young .....	.....	X	.....				
Mr. Kelly .....	.....	X	.....				
Mr. Renacci .....	.....	X	.....				
Mr. Meehan .....	.....	X	.....				
Ms. Noem .....	.....	X	.....				
Mr. Holding .....	.....	X	.....				
Mr. Smith (MO) .....	.....	X	.....				

The bill, H.R. 1295, as amended, was ordered favorably reported to the House of Representatives by a voice vote (with a quorum being present).

#### IV. BUDGET EFFECTS OF THE BILL

##### A. COMMITTEE ESTIMATE OF BUDGETARY EFFECTS

In compliance with clause 3(d) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the effects on the budget of the bill, H.R. 1295, as reported.

The bill, as reported, is estimated to have the following effect on Federal budget receipts for fiscal years 2015–2025:

FISCAL YEARS													
[Millions of dollars] <sup>1</sup>													
2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2015–20	2015–25	
( <sup>2</sup> )	1	1	1	1	1	2	2	2	2	2	5	16	

<sup>1</sup> Estimate includes an increase in user fees of \$15 million over the budget window, as provided by the Congressional Budget Office.

<sup>2</sup> Increase of less than \$500,000.

Pursuant to clause 8 of rule XIII of the Rules of the House of Representatives, the following statement is made by the Joint Committee on Taxation with respect to the provisions of the bill amending the Internal Revenue Code of 1986: the gross budgetary effect (before incorporating macroeconomic effects) in any fiscal year is less than 0.25 percent of the current projected gross domestic product of the United States for that fiscal year; therefore, the bill is not “major legislation” for purposes of requiring that the estimate include the budgetary effects of changes in economic output, employment, capital stock and other macroeconomic variables.

**B. STATEMENT REGARDING NEW BUDGET AUTHORITY AND TAX EXPENDITURES BUDGET AUTHORITY**

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee states that the bill involves no new or increased budget authority. The Committee further states that there are no new or increased tax expenditures.

**C. COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET OFFICE**

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, requiring a cost estimate prepared by the CBO, the following statement by CBO is provided.

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, April 3, 2015.*

Hon. PAUL RYAN,  
*Chairman, Committee on Ways and Means,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1295, the IRS Bureaucracy Reduction and Judicial Review Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Matthew Pickford.

Sincerely,

KEITH HALL,  
*Director.*

Enclosure.

***H.R. 1295—IRS Bureaucracy Reduction and Judicial Review Act***

Summary: H.R. 1295 would amend federal law concerning certain nonprofit and tax exempt civic leagues or organizations operated for the promotion of social welfare—known as 501(c)(4) organizations. Specifically, the bill would:

- Require each such organization to notify the Department of the Treasury of its formation and to pay a fee;
- Require the Treasury to acknowledge receipt of such notifications within 60 days; and
- Establish new monetary penalties for organizations that do not provide timely notification to the Treasury.

CBO and the staff of the Joint Committee on Taxation (JCT) estimate that enacting H.R. 1295 would increase fee and penalty collections (which are recorded in the budget as revenues) by \$16 million over the 2016–2025 period. Because enacting the bill would affect revenues, pay-as-you-go procedures apply. Enacting the bill would not affect direct spending. In addition, CBO estimates that implementing H.R. 1295 would cost \$5 million over the 2016–2020, assuming appropriation of the necessary amounts.

CBO and JCT have determined that H.R. 1295 contains no inter-governmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not increase the budgets of state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary effects of H.R. 1295 are shown in the following table. The ef-

fects of this legislation fall within budget function 800 (general government).

	By fiscal year, in millions of dollars—											
	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2016–2020	2016–2025
<b>CHANGES IN REVENUES</b>												
Estimated Revenues .....	1	1	1	1	1	2	2	2	2	2	5	16
<b>CHANGES IN SPENDING SUBJECT TO APPROPRIATION</b>												
Estimated Authorization Level	1	1	1	1	1	2	2	2	2	2	5	15
Estimated Outlays .....	1	1	1	1	1	2	2	2	2	2	5	15

Sources: CBO and the staff of the Joint Committee on Taxation.

Note: Components may not sum to totals because of rounding.

**Basis of estimate:** For this estimate, CBO assumes that the legislation will be enacted before the end of fiscal year 2015.

#### *Revenues*

H.R. 1295 would require each entity that forms as a 501(c)(4) organization after the bill's enactment to provide notice to the Treasury of its formation and to pay a fee. Based on information from the Internal Revenue Service (IRS) regarding the number of 501(c)(4) formed in recent years (about 3,000 per year), CBO estimates that this provision would increase revenue collections by \$15 million over the 2016–2025 period. In addition, JCT estimates that the bill would increase revenues by \$1 million over the 2016–2025 period from penalties imposed for violations of the provisions in H.R. 1295.

#### *Spending subject to appropriation*

H.R. 1295 would authorize IRS to spend amounts collected from entities applying to become 501(c)(4) organizations. CBO estimates that implementing this provision would cost \$15 million over the 2016–2025 period, assuming appropriation of the necessary amounts.

**Pay-As-You-Go considerations:** The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The changes in revenues that are subject to those pay-as-you-go procedures are shown in the following table.

#### CBO ESTIMATE OF PAY-AS-YOU-GO EFFECTS FOR H.R. 1295, AS ORDERED REPORTED BY THE HOUSE COMMITTEE ON WAYS AND MEANS ON MARCH 25, 2015

	By fiscal year, in millions of dollars—												
	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2015–2020	2015–2025
<b>NET DECREASE IN THE DEFICIT</b>													
Statutory Pay-As-You-Go Impact .....	0	-1	-1	-1	-1	-1	-1	-2	-2	-2	-2	-5	-16

**Intergovernmental and private-sector impact:** CBO and JCT have determined that H.R. 1295 contains no intergovernmental or private-sector mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

Estimate prepared by: Federal spending: Matthew Pickford; Federal revenues: Staff of the Joint Committee on Taxation; Intergovernmental and private-sector mandates: Staff of the Joint Committee on Taxation, Jon Sperl, and Paige Piper/Bach.

Estimate approved by: Theresa Gullo, Assistant Director for Budget Analysis.

## **V. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE**

### **A. COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS**

With respect to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives (relating to oversight findings), the Committee advises that it was as a result of the Committee's review of the provisions of H.R. 1295 that the Committee concluded that it is appropriate to report the bill, as amended, favorably to the House of Representatives with the recommendation that the bill do pass.

### **B. STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES**

With respect to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee advises that the bill contains no measure that authorizes funding, so no statement of general performance goals and objectives for which any measure authorizes funding is required.

### **C. INFORMATION RELATING TO UNFUNDED MANDATES**

This information is provided in accordance with section 423 of the Unfunded Mandates Reform Act of 1995 (Pub. L. No. 104-4). The Committee has determined that the bill does not contain Federal mandates on the private sector. The Committee has determined that the bill does not impose a Federal intergovernmental mandate on State, local, or tribal governments.

### **D. APPLICABILITY OF HOUSE RULE XXI 5(b)**

Rule XXI 5(b) of the Rules of the House of Representatives provides, in part, that "A bill or joint resolution, amendment, or conference report carrying a Federal income tax rate increase may not be considered as passed or agreed to unless so determined by a vote of not less than three-fifths of the Members voting, a quorum being present." The Committee has carefully reviewed the bill, and states that the bill does not involve any Federal income tax rate increases within the meaning of the rule.

### **E. TAX COMPLEXITY ANALYSIS**

The following statement is made pursuant to clause 3(h)(1) of rule XIII of the Rules of the House of Representatives. Section 4022(b) of the Internal Revenue Service Restructuring and Reform Act of 1998 requires the staff of the Joint Committee on Taxation (in consultation with the Internal Revenue Service and the Treasury Department) to provide a tax complexity analysis. The complexity analysis is required for all legislation reported by the Senate Committee on Finance, the House Committee on Ways and

Means, or any committee of conference if the legislation includes a provision that directly or indirectly amends the Internal Revenue Code and has widespread applicability to individuals or small businesses.

Pursuant to clause 3(h)(1) of rule XIII of the Rules of the House of Representatives, the staff of the Joint Committee on Taxation has determined that a complexity analysis is not required under section 4022(b) of the IRS Reform Act because the bill contains no provisions that amend the Internal Revenue Code and that have “widespread applicability” to individuals or small businesses, within the meaning of the rule.

**F. CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND  
LIMITED TARIFF BENEFITS**

With respect to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee has carefully reviewed the provisions of the bill, and states that the provisions of the bill do not contain any congressional earmarks, limited tax benefits, or limited tariff benefits within the meaning of the rule.

**G. DUPLICATION OF FEDERAL PROGRAMS**

In compliance with Sec. 3(g)(2) of H. Res. 5 (114th Congress), the Committee states that no provision of the bill establishes or reauthorizes: (1) a program of the Federal Government known to be duplicative of another Federal program, (2) a program included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139, or (3) a program related to a program identified in the most recent Catalog of Federal Domestic Assistance, published pursuant to the Federal Program Information Act (Public Law 95-220, as amended by Public Law 98-169).

**H. DISCLOSURE OF DIRECTED RULE MAKINGS**

In compliance with Sec. 3(i) of H. Res. 5 (114th Congress), the following statement is made concerning directed rule makings: The Committee estimates that the bill requires no directed rule makings within the meaning of such section.

**VI. CHANGES IN EXISTING LAW MADE BY THE BILL, AS  
REPORTED**

**A. TEXT OF EXISTING LAW AMENDED OR REPEALED BY THE BILL, AS  
REPORTED**

In compliance with clause 3(e)(1)(A) of rule XIII of the Rules of the House of Representatives, the text of each section proposed to be amended or repealed by the bill, as reported, is shown below:

**TEXT OF EXISTING LAW AMENDED OR REPEALED BY THE BILL, AS  
REPORTED**

In compliance with clause 3(e)(1)(A) of rule XIII of the Rules of the House of Representatives, the text of each section proposed to be amended or repealed by the bill, as reported, is shown below:

**INTERNAL REVENUE CODE OF 1986**

\* \* \* \* \*

**Subtitle F—Procedure and Administration**

\* \* \* \* \*

**CHAPTER 61—INFORMATION AND RETURNS**

\* \* \* \* \*

**Subchapter A—Returns and Records**

\* \* \* \* \*

**PART III—INFORMATION RETURNS**

\* \* \* \* \*

**Subpart A—Information Concerning Persons Subject to Special Provisions**

\* \* \* \* \*

**SEC. 6033. RETURNS BY EXEMPT ORGANIZATIONS.**(a) **ORGANIZATIONS REQUIRED TO FILE.**—

(1) **IN GENERAL.**—Except as provided in paragraph (3), every organization exempt from taxation under section 501(a) shall file an annual return, stating specifically the items of gross income, receipts, and disbursements, and such other information for the purpose of carrying out the internal revenue laws as the Secretary may by forms or regulations prescribe, and shall keep such records, render under oath such statements, make such other returns, and comply with such rules and regulations as the Secretary may from time to time prescribe; except that, in the discretion of the Secretary, any organization described in section 401(a) may be relieved from stating in its return any information which is reported in returns filed by the employer which established such organization.

(2) **BEING A PARTY TO CERTAIN REPORTABLE TRANSACTIONS.**—Every tax-exempt entity described in section 4965(c) shall file (in such form and manner and at such time as determined by the Secretary) a disclosure of—

- (A) such entity's being a party to any prohibited tax shelter transaction (as defined in section 4965(e)), and
- (B) the identity of any other party to such transaction which is known by such tax-exempt entity.

(3) **EXCEPTIONS FROM FILING.**—

(A) **MANDATORY EXCEPTIONS.**—Paragraph (1) shall not apply to—

- (i) churches, their integrated auxiliaries, and conventions or associations of churches,
- (ii) any organization (other than a private foundation, as defined in section 509(a)) described in subparagraph (C), the gross receipts of which in each taxable year are normally not more than \$5,000, or

(iii) the exclusively religious activities of any religious order.

(B) DISCRETIONARY EXCEPTIONS.—The Secretary may relieve any organization required under paragraph (1) (other than an organization described in section 509(a)(3)) to file an information return from filing such a return where he determines that such filing is not necessary to the efficient administration of the internal revenue laws.

(C) CERTAIN ORGANIZATIONS.—The organizations referred to in subparagraph (A)(ii) are—

(i) a religious organization described in section 501(c)(3);

(ii) an educational organization described in section 170(b)(1)(A)(ii);

(iii) a charitable organization, or an organization for the prevention of cruelty to children or animals, described in section 501(c)(3), if such organization is supported, in whole or in part, by funds contributed by the United States or any State or political subdivision thereof, or is primarily supported by contributions of the general public;

(iv) an organization described in section 501(c)(3), if such organization is operated, supervised, or controlled by or in connection with a religious organization described in clause (i);

(v) an organization described in section 501(c)(8); and

(vi) an organization described in section 501(c)(1), if such organization is a corporation wholly owned by the United States or any agency or instrumentality thereof, or a wholly-owned subsidiary of such a corporation.

(b) CERTAIN ORGANIZATIONS DESCRIBED IN SECTION 501(C)(3).—Every organization described in section 501(c)(3) which is subject to the requirements of subsection (a) shall furnish annually information, at such time and in such manner as the Secretary may by forms or regulations prescribe, setting forth—

(1) its gross income for the year,

(2) its expenses attributable to such income and incurred within the year,

(3) its disbursements within the year for the purposes for which it is exempt,

(4) a balance sheet showing its assets, liabilities, and net worth as of the beginning of such year,

(5) the total of the contributions and gifts received by it during the year, and the names and addresses of all substantial contributors,

(6) the names and addresses of its foundation managers (within the meaning of section 4946(b)(1)) and highly compensated employees,

(7) the compensation and other payments made during the year to each individual described in paragraph (6),

(8) in the case of an organization with respect to which an election under section 501(h) is effective for the taxable year,

the following amounts for such organization for such taxable year:

- (A) the lobbying expenditures (as defined in section 4911(c)(1)),
- (B) the lobbying nontaxable amount (as defined in section 4911(c)(2)),
- (C) the grass roots expenditures (as defined in section 4911(c)(3)), and
- (D) the grass roots nontaxable amount (as defined in section 4911(c)(4)),
- (9) such other information with respect to direct or indirect transfers to, and other direct or indirect transactions and relationships with, other organizations described in section 501(c) (other than paragraph (3) thereof) or section 527 as the Secretary may require to prevent—
  - (A) diversion of funds from the organization's exempt purpose, or
  - (B) misallocation of revenues or expenses,
- (10) the respective amounts (if any) of the taxes imposed on the organization, or any organization manager of the organization, during the taxable year under any of the following provisions (and the respective amounts (if any) of reimbursements paid by the organization during the taxable year with respect to taxes imposed on any such organization manager under any of such provisions):
  - (A) section 4911 (relating to tax on excess expenditures to influence legislation),
  - (B) section 4912 (relating to tax on disqualifying lobbying expenditures of certain organizations),
  - (C) section 4955 (relating to taxes on political expenditures of section 501(c)(3) organizations), except to the extent that, by reason of section 4962, the taxes imposed under such section are not required to be paid or are credited or refunded, and
  - (D) section 4959 (relating to taxes on failures by hospital organizations),
- (11) the respective amounts (if any) of—
  - (A) the taxes imposed with respect to the organization on any organization manager, or any disqualified person, during the taxable year under section 4958 (relating to taxes on private excess benefit from certain charitable organizations), and
  - (B) reimbursements paid by the organization during the taxable year with respect to taxes imposed under such section, except to the extent that, by reason of section 4962, the taxes imposed under such section are not required to be paid or are credited or refunded,
- (12) such information as the Secretary may require with respect to any excess benefit transaction (as defined in section 4958),
- (13) such information with respect to disqualified persons as the Secretary may prescribe,
- (14) such information as the Secretary may require with respect to disaster relief activities, including the amount and use of qualified contributions to which section 1400S(a) applies,

(15) in the case of an organization to which the requirements of section 501(r) apply for the taxable year—

(A) a description of how the organization is addressing the needs identified in each community health needs assessment conducted under section 501(r)(3) and a description of any such needs that are not being addressed together with the reasons why such needs are not being addressed, and

(B) the audited financial statements of such organization (or, in the case of an organization the financial statements of which are included in a consolidated financial statement with other organizations, such consolidated financial statement).

(16) such other information for purposes of carrying out the internal revenue laws as the Secretary may require.

For purposes of paragraph (8), if section 4911(f) applies to the organization for the taxable year, such organization shall furnish the amounts with respect to the affiliated group as well as with respect to such organization.

(c) ADDITIONAL PROVISIONS RELATING TO PRIVATE FOUNDATIONS.—In the case of an organization which is a private foundation (within the meaning of section 509(a))—

(1) the Secretary shall by regulations provide that the private foundation shall include in its annual return under this section such information (not required to be furnished by subsection (b) or the forms or regulations prescribed thereunder) as would have been required to be furnished under section 6056 (relating to annual reports by private foundations) as such section 6056 was in effect on January 1, 1979, and

(2) the foundation managers shall furnish copies of the annual return under this section to such State officials, at such times, and under such conditions, as the Secretary may by regulations prescribe.

Nothing in paragraph (1) shall require the inclusion of the name and address of any recipient (other than a disqualified person within the meaning of section 4946) of 1 or more charitable gifts or grants made by the foundation to such recipient as an indigent or needy person if the aggregate of such gifts or grants made by the foundation to such recipient during the year does not exceed \$1,000.

(d) SECTION TO APPLY TO NONEXEMPT CHARITABLE TRUSTS AND NONEXEMPT PRIVATE FOUNDATIONS.—The following organizations shall comply with the requirements of this section in the same manner as organizations described in section 501(c)(3) which are exempt from tax under section 501(a):

(1) NONEXEMPT CHARITABLE TRUSTS.—A trust described in section 4947(a)(1) (relating to nonexempt charitable trusts).

(2) NONEXEMPT PRIVATE FOUNDATIONS.—A private foundation which is not exempt from tax under section 501(a).

(e) SPECIAL RULES RELATING TO LOBBYING ACTIVITIES.—

(1) REPORTING REQUIREMENTS.—

(A) IN GENERAL.—If this subsection applies to an organization for any taxable year, such organization—

(i) shall include on any return required to be filed under subsection (a) for such year information setting

forth the total expenditures of the organization to which section 162(e)(1) applies and the total amount of the dues or other similar amounts paid to the organization to which such expenditures are allocable, and

(ii) except as provided in paragraphs (2)(A)(i) and (3), shall, at the time of assessment or payment of such dues or other similar amounts, provide notice to each person making such payment which contains a reasonable estimate of the portion of such dues or other similar amounts to which such expenditures are so allocable.

(B) ORGANIZATIONS TO WHICH SUBSECTION APPLIES.—

(i) IN GENERAL.—This subsection shall apply to any organization which is exempt from taxation under section 501 other than an organization described in section 501(c)(3).

(ii) SPECIAL RULE FOR IN-HOUSE EXPENDITURES.—This subsection shall not apply to the in-house expenditures (within the meaning of section 162(e)(5)(B)(ii)) of an organization for a taxable year if such expenditures do not exceed \$2,000. In determining whether a taxpayer exceeds the \$2,000 limit under this clause, there shall not be taken into account overhead costs otherwise allocable to activities described in subparagraphs (A) and (D) of section 162(e)(1).

(iii) COORDINATION WITH SECTION 527(F).—This subsection shall not apply to any amount on which tax is imposed by reason of section 527(f).

(C) ALLOCATION.—For purposes of this paragraph—

(i) IN GENERAL.—Expenditures to which section 162(e)(1) applies shall be treated as paid out of dues or other similar amounts to the extent thereof.

(ii) CARRYOVER OF LOBBYING EXPENDITURES IN EXCESS OF DUES.—If expenditures to which section 162(e)(1) applies exceed the dues or other similar amounts for any taxable year, such excess shall be treated as expenditures to which section 162(e)(1) applies which are paid or incurred by the organization during the following taxable year.

(2) TAX IMPOSED WHERE ORGANIZATION DOES NOT NOTIFY.—

(A) IN GENERAL.—If an organization—

(i) elects not to provide the notices described in paragraph (1)(A) for any taxable year, or

(ii) fails to include in such notices the amount allocable to expenditures to which section 162(e)(1) applies (determined on the basis of actual amounts rather than the reasonable estimates under paragraph (1)(A)(ii)),

then there is hereby imposed on such organization for such taxable year a tax in an amount equal to the product of the highest rate of tax imposed by section 11 for the taxable year and the aggregate amount not included in such notices by reason of such election or failure.

(B) WAIVER WHERE FUTURE ADJUSTMENTS MADE.—The Secretary may waive the tax imposed by subparagraph (A)(ii) for any taxable year if the organization agrees to adjust its estimates under paragraph (1)(A)(ii) for the following taxable year to correct any failures.

(C) TAX TREATED AS INCOME TAX.—For purposes of this title, the tax imposed by subparagraph (A) shall be treated in the same manner as a tax imposed by chapter 1 (relating to income taxes).

(3) EXCEPTION WHERE DUES GENERALLY NONDEDUCTIBLE.—Paragraph (1)(A) shall not apply to an organization which establishes to the satisfaction of the Secretary that substantially all of the dues or other similar amounts paid by persons to such organization are not deductible without regard to section 162(e).

(f) CERTAIN ORGANIZATIONS DESCRIBED IN SECTION 501(C)(4).—Every organization described in section 501(c)(4) which is subject to the requirements of subsection (a) shall include on the return required under subsection (a) the information referred to in paragraphs (11), (12) and (13) of subsection (b) with respect to such organization.

(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.

(h) CONTROLLING ORGANIZATIONS.—Each controlling organization (within the meaning of section 512(b)(13)) which is subject to the requirements of subsection (a) shall include on the return required under subsection (a)—

(1) any interest, annuities, royalties, or rents received from each controlled entity (within the meaning of section 512(b)(13)),

(2) any loans made to each such controlled entity, and

(3) any transfers of funds between such controlling organization and each such controlled entity.

(i) ADDITIONAL NOTIFICATION REQUIREMENTS.—Any organization the gross receipts of which in any taxable year result in such organization being referred to in subsection (a)(3)(A)(ii) or (a)(3)(B)—

(1) shall furnish annually, in electronic form, and at such time and in such manner as the Secretary may by regulations prescribe, information setting forth—

(A) the legal name of the organization,

(B) any name under which such organization operates or does business,

(C) the organization's mailing address and Internet web site address (if any),

(D) the organization's taxpayer identification number,

(E) the name and address of a principal officer, and

(F) evidence of the continuing basis for the organization's exemption from the filing requirements under subsection (a)(1), and

(2) upon the termination of the existence of the organization, shall furnish notice of such termination.

(j) LOSS OF EXEMPT STATUS FOR FAILURE TO FILE RETURN OR NOTICE.—

(1) IN GENERAL.—If an organization described in subsection (a)(1) or (i) fails to file an annual return or notice required under either subsection for 3 consecutive years, such organization's status as an organization exempt from tax under section 501(a) shall be considered revoked on and after the date set by the Secretary for the filing of the third annual return or notice. The Secretary shall publish and maintain a list of any organization the status of which is so revoked.

(2) APPLICATION NECESSARY FOR REINSTATEMENT.—Any organization the tax-exempt status of which is revoked under paragraph (1) must apply in order to obtain reinstatement of such status regardless of whether such organization was originally required to make such an application.

(3) RETROACTIVE REINSTATEMENT IF REASONABLE CAUSE SHOWN FOR FAILURE.—If, upon application for reinstatement of

status as an organization exempt from tax under section 501(a), an organization described in paragraph (1) can show to the satisfaction of the Secretary evidence of reasonable cause for the failure described in such paragraph, the organization's exempt status may, in the discretion of the Secretary, be reinstated effective from the date of the revocation under such paragraph.

(k) ADDITIONAL PROVISIONS RELATING TO SPONSORING ORGANIZATIONS.—Every organization described in section 4966(d)(1) shall, on the return required under subsection (a) for the taxable year—

- (1) list the total number of donor advised funds (as defined in section 4966(d)(2)) it owns at the end of such taxable year,
- (2) indicate the aggregate value of assets held in such funds at the end of such taxable year, and
- (3) indicate the aggregate contributions to and grants made from such funds during such taxable year.

(l) ADDITIONAL PROVISIONS RELATING TO SUPPORTING ORGANIZATIONS.—Every organization described in section 509(a)(3) shall, on the return required under subsection (a)—

- (1) list the supported organizations (as defined in section 509(f)(3)) with respect to which such organization provides support,
- (2) indicate whether the organization meets the requirements of clause (i), (ii), or (iii) of section 509(a)(3)(B), and
- (3) certify that the organization meets the requirements of section 509(a)(3)(C).

(m) ADDITIONAL INFORMATION REQUIRED FROM CO-OP INSURERS.—An organization described in section 501(c)(29) shall include on the return required under subsection (a) the following information:

- (1) The amount of the reserves required by each State in which the organization is licensed to issue qualified health plans.
- (2) The amount of reserves on hand.

(n) CROSS REFERENCES.—For provisions relating to statements, etc., regarding exempt status of organizations, see section 6001. For reporting requirements as to certain liquidations, dissolutions, terminations, and contractions, see section 6043(b). For provisions relating to penalties for failure to file a return required by this section, see section 6652(c). For provisions relating to information required in connection with certain plans of deferred compensation, see section 6058.

\* \* \* \* \*

## **CHAPTER 68—ADDITIONS TO THE TAX, ADDITIONAL AMOUNTS, AND ASSESSABLE PENALTIES**

\* \* \* \* \*

### **Subchapter A—Additions to the Tax and Additional Amounts**

\* \* \* \* \*

## PART I—GENERAL PROVISIONS

\* \* \* \* \*

### **SEC. 6652. FAILURE TO FILE CERTAIN INFORMATION RETURNS, REGISTRATION STATEMENTS, ETC.**

(a) RETURNS WITH RESPECT TO CERTAIN PAYMENTS AGGREGATING LESS THAN \$10.—In the case of each failure to file a statement of a payment to another person required under the authority of—

- (1) section 6042(a)(2) (relating to payments of dividends aggregating less than \$10), or
- (2) section 6044(a)(2) (relating to payments of patronage dividends aggregating less than \$10),

on the date prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause and not to willful neglect, there shall be paid (upon notice and demand by the Secretary and in the same manner as tax) by the person failing to so file the statement, \$1 for each such statement not so filed, but the total amount imposed on the delinquent person for all such failures during the calendar year shall not exceed \$1,000.

(b) FAILURE TO REPORT TIPS.—In the case of failure by an employee to report to his employer on the date and in the manner prescribed therefor any amount of tips required to be so reported by section 6053(a) which are wages (as defined in section 3121(a)) or which are compensation (as defined in section 3231(e)), unless it is shown that such failure is due to reasonable cause and not due to willful neglect, there shall be paid by the employee, in addition to the tax imposed by section 3101 or section 3201 (as the case may be) with respect to the amount of tips which he so failed to report, an amount equal to 50 percent of such tax.

(c) RETURNS BY EXEMPT ORGANIZATIONS AND BY CERTAIN TRUSTS.—

- (1) ANNUAL RETURNS UNDER SECTION 6033(A)(1) OR 6012(A)(6).—

(A) PENALTY ON ORGANIZATION.—In the case of—

- (i) a failure to file a return required under section 6033(a)(1) (relating to returns by exempt organizations) or section 6012(a)(6) (relating to returns by political organizations) on the date and in the manner prescribed therefor (determined with regard to any extension of time for filing), or
- (ii) a failure to include any of the information required to be shown on a return filed under section 6033(a)(1) or section 6012(a)(6) or to show the correct information,

there shall be paid by the exempt organization \$20 for each day during which such failure continues. The maximum penalty under this subparagraph on failures with respect to any 1 return shall not exceed the lesser of \$10,000 or 5 percent of the gross receipts of the organization for the year. In the case of an organization having gross receipts exceeding \$1,000,000 for any year, with respect to the return required under section 6033(a)(1) or section 6012(a)(6) for such year, in applying the first sentence of this subparagraph, the amount of the penalty for each day during which a failure continues shall be \$100 in

lieu of the amount otherwise specified, and, in lieu of applying the second sentence of this subparagraph, the maximum penalty under this subparagraph shall not exceed \$50,000.

(B) MANAGERS.—

(i) IN GENERAL.—The Secretary may make a written demand on any organization subject to penalty under subparagraph (A) specifying therein a reasonable future date by which the return shall be filed (or the information furnished) for purposes of this subparagraph.

(ii) FAILURE TO COMPLY WITH DEMAND.—If any person fails to comply with any demand under clause (i) on or before the date specified in such demand, there shall be paid by the person failing to so comply \$10 for each day after the expiration of the time specified in such demand during which such failure continues. The maximum penalty imposed under this subparagraph on all persons for failures with respect to any 1 return shall not exceed \$5,000.

(C) PUBLIC INSPECTION OF ANNUAL RETURNS AND REPORTS.—In the case of a failure to comply with the requirements of section 6104(d) with respect to any annual return on the date and in the manner prescribed therefor (determined with regard to any extension of time for filing) or report required under section 527(j), there shall be paid by the person failing to meet such requirements \$20 for each day during which such failure continues. The maximum penalty imposed under this subparagraph on all persons for failures with respect to any 1 return or report shall not exceed \$10,000.

(D) PUBLIC INSPECTION OF APPLICATIONS FOR EXEMPTION AND NOTICE OF STATUS.—In the case of a failure to comply with the requirements of section 6104(d) with respect to any exempt status application materials (as defined in such section) or notice materials (as defined in such section) on the date and in the manner prescribed therefor, there shall be paid by the person failing to meet such requirements \$20 for each day during which such failure continues.

(E) NO PENALTY FOR CERTAIN ANNUAL NOTICES.—This paragraph shall not apply with respect to any notice required under section 6033(i).

(2) RETURNS UNDER SECTION 6034 OR 6043(B).—

(A) PENALTY ON ORGANIZATION OR TRUST.—In the case of a failure to file a return required under section 6034 (relating to returns by certain trusts) or section 6043(b) (relating to terminations, etc., of exempt organizations), on the date and in the manner prescribed therefor (determined with regard to any extension of time for filing), there shall be paid by the exempt organization or trust failing so to file \$10 for each day during which such failure continues, but the total amount imposed under this subparagraph on any organization or trust for failure to file any 1 return shall not exceed \$5,000.

(B) MANAGERS.—The Secretary may make written demand on an organization or trust failing to file under subparagraph (A) specifying therein a reasonable future date by which such filing shall be made for purposes of this subparagraph. If such filing is not made on or before such date, there shall be paid by the person failing so to file \$10 for each day after the expiration of the time specified in the written demand during which such failure continues, but the total amount imposed under this subparagraph on all persons for failure to file any 1 return shall not exceed \$5,000.

(C) SPLIT-INTEREST TRUSTS.—In the case of a trust which is required to file a return under section 6034(a), subparagraphs (A) and (B) of this paragraph shall not apply and paragraph (1) shall apply in the same manner as if such return were required under section 6033, except that—

(i) the 5 percent limitation in the second sentence of paragraph (1)(A) shall not apply,

(ii) in the case of any trust with gross income in excess of \$250,000, in applying the first sentence of paragraph (1)(A), the amount of the penalty for each day during which a failure continues shall be \$100 in lieu of the amount otherwise specified, and in lieu of applying the second sentence of paragraph (1)(A), the maximum penalty under paragraph (1)(A) shall not exceed \$50,000, and

(iii) the third sentence of paragraph (1)(A) shall be disregarded.

In addition to any penalty imposed on the trust pursuant to this subparagraph, if the person required to file such return knowingly fails to file the return, such penalty shall also be imposed on such person who shall be personally liable for such penalty.

(3) DISCLOSURE UNDER SECTION 6033(A)(2).—

(A) PENALTY ON ENTITIES.—In the case of a failure to file a disclosure required under section 6033(a)(2), there shall be paid by the tax-exempt entity (the entity manager in the case of a tax-exempt entity described in paragraph (4), (5), (6), or (7) of section 4965(c)) \$100 for each day during which such failure continues. The maximum penalty under this subparagraph on failures with respect to any 1 disclosure shall not exceed \$50,000.

(B) WRITTEN DEMAND.—

(i) IN GENERAL.—The Secretary may make a written demand on any entity or manager subject to penalty under subparagraph (A) specifying therein a reasonable future date by which the disclosure shall be filed for purposes of this subparagraph.

(ii) FAILURE TO COMPLY WITH DEMAND.—If any entity or manager fails to comply with any demand under clause (i) on or before the date specified in such demand, there shall be paid by such entity or manager failing to so comply \$100 for each day after the expiration of the time specified in such demand during which such failure continues. The maximum penalty

imposed under this subparagraph on all entities and managers for failures with respect to any 1 disclosure shall not exceed \$10,000.

(C) DEFINITIONS.—Any term used in this section which is also used in section 4965 shall have the meaning given such term under section 4965.

(4) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this subsection with respect to any failure if it is shown that such failure is due to reasonable cause.

(5) OTHER SPECIAL RULES.—

(A) TREATMENT AS TAX.—Any penalty imposed under this subsection shall be paid on notice and demand of the Secretary and in the same manner as tax.

(B) JOINT AND SEVERAL LIABILITY.—If more than 1 person is liable under this subsection for any penalty with respect to any failure, all such persons shall be jointly and severally liable with respect to such failure.

(C) PERSON.—For purposes of this subsection, the term “person” means any officer, director, trustee, employee, or other individual who is under a duty to perform the act in respect of which the violation occurs.

(6) ADJUSTMENT FOR INFLATION.—

(A) IN GENERAL.—In the case of any failure relating to a return required to be filed in a calendar year beginning after 2014, each of the dollar amounts under paragraphs (1), (2), and (3) shall be increased by such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) determined by substituting “calendar year 2013” for “calendar year 1992” in subparagraph (B) thereof.

(B) ROUNDING.—If any amount adjusted under subparagraph (A)—

(i) is not less than \$5,000 and is not a multiple of \$500, such amount shall be rounded to the next lowest multiple of \$500, and

(ii) is not described in clause (i) and is not a multiple of \$5, such amount shall be rounded to the next lowest multiple of \$5.

(d) ANNUAL REGISTRATION AND OTHER NOTIFICATION BY PENSION PLAN.—

(1) REGISTRATION.—In the case of any failure to file a registration statement required under section 6057(a) (relating to annual registration of certain plans) which includes all participants required to be included in such statement, on the date prescribed therefor (determined without regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause, there shall be paid (on notice and demand by the Secretary and in the same manner as tax) by the person failing so to file, an amount equal to \$1 for each participant with respect to whom there is a failure to file, multiplied by the number of days during which such failure continues, but the total amount imposed under this paragraph on any person for any failure to file with respect to any plan year shall not exceed \$5,000.

(2) NOTIFICATION OF CHANGE OF STATUS.—In the case of failure to file a notification required under section 6057(b) (relating to notification of change of status) on the date prescribed therefor (determined without regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause, there shall be paid (on notice and demand by the Secretary and in the same manner as tax) by the person failing so to file, \$1 for each day during which such failure continues, but the total amounts imposed under this paragraph on any person for failure to file any notification shall not exceed \$1,000.

(e) INFORMATION REQUIRED IN CONNECTION WITH CERTAIN PLANS OF DEFERRED COMPENSATION, ETC.—In the case of failure to file a return or statement required under section 6058 (relating to information required in connection with certain plans of deferred compensation), 6047 (relating to information relating to certain trusts and annuity and bond purchase plans), or 6039D (relating to returns and records with respect to certain fringe benefit plans) on the date and in the manner prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause, there shall be paid (on notice and demand by the Secretary and in the same manner as tax) by the person failing so to file, \$25 for each day during which such failure continues, but the total amount imposed under this subsection on any person for failure to file any return shall not exceed \$15,000. This subsection shall not apply to any return or statement which is an information return described in section 6724(d)(1)(C)(ii) or a payee statement described in section 6724(d)(2)(Y).

(f) RETURNS REQUIRED UNDER SECTION 6039C.—

(1) IN GENERAL.—In the case of each failure to make a return required by section 6039C which contains the information required by such section on the date prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause and not to willful neglect, the amount determined under paragraph (2) shall be paid (upon notice and demand by the Secretary and in the same manner as tax) by the person failing to make such return.

(2) AMOUNT OF PENALTY.—For purposes of paragraph (1), the amount determined under this paragraph with respect to any failure shall be \$25 for each day during which such failure continues.

(3) LIMITATION.—The amount determined under paragraph (2) with respect to any person for failing to meet the requirements of section 6039C for any calendar year shall not exceed the lesser of—

(A) \$25,000, or

(B) 5 percent of the aggregate of the fair market value of the United States real property interests owned by such person at any time during such year.

For purposes of the preceding sentence, fair market value shall be determined as of the end of the calendar year (or, in the case of any property disposed of during the calendar year, as of the date of such disposition).

(h) FAILURE TO GIVE NOTICE TO RECIPIENTS OF CERTAIN PENSION, ETC., DISTRIBUTIONS.—In the case of each failure to provide notice as required by section 3405(e)(10)(B), at the time prescribed therefor, unless it is shown that such failure is due to reasonable cause and not to willful neglect, there shall be paid, on notice and demand of the Secretary and in the same manner as tax, by the person failing to provide such notice, an amount equal to \$10 for each such failure, but the total amount imposed on such person for all such failures during any calendar year shall not exceed \$5,000.

(i) FAILURE TO GIVE WRITTEN EXPLANATION TO RECIPIENTS OF CERTAIN QUALIFYING ROLLOVER DISTRIBUTIONS.—In the case of each failure to provide a written explanation as required by section 402(f), at the time prescribed therefor, unless it is shown that such failure is due to reasonable cause and not to willful neglect, there shall be paid, on notice and demand of the Secretary and in the same manner as tax, by the person failing to provide such written explanation, an amount equal to \$100 for each such failure, but the total amount imposed on such person for all such failures during any calendar year shall not exceed \$50,000.

(j) FAILURE TO FILE CERTIFICATION WITH RESPECT TO CERTAIN RESIDENTIAL RENTAL PROJECTS.—In the case of each failure to provide a certification as required by section 142(d)(7) at the time prescribed therefor, unless it is shown that such failure is due to reasonable cause and not to willful neglect, there shall be paid, on notice and demand of the Secretary and in the same manner as tax, by the person failing to provide such certification, an amount equal to \$100 for each such failure.

(k) FAILURE TO MAKE REPORTS REQUIRED UNDER SECTION 1202.—

In the case of a failure to make a report required under section 1202(d)(1)(C) which contains the information required by such section on the date prescribed therefor (determined with regard to any extension of time for filing), there shall be paid (on notice and demand by the Secretary and in the same manner as tax) by the person failing to make such report, an amount equal to \$50 for each report with respect to which there was such a failure. In the case of any failure due to negligence or intentional disregard, the preceding sentence shall be applied by substituting "\$100" for "\$50". In the case of a report covering periods in 2 or more years, the penalty determined under preceding provisions of this subsection shall be multiplied by the number of such years. No penalty shall be imposed under this subsection on any failure which is shown to be due to reasonable cause and not willful neglect.

(l) FAILURE TO FILE RETURN WITH RESPECT TO CERTAIN CORPORATE TRANSACTIONS.—In the case of any failure to make a return required under section 6043(c) containing the information required by such section on the date prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause, there shall be paid (on notice and demand by the Secretary and in the same manner as tax) by the person failing to file such return, an amount equal to \$500 for each day during which such failure continues, but the total amount imposed under this subsection with respect to any return shall not exceed \$100,000.

(m) ALCOHOL AND TOBACCO TAXES FOR PENALTIES FOR FAILURE TO FILE CERTAIN INFORMATION RETURNS.—with respect to alcohol and tobacco taxes, see, generally, subtitle E.

(n) FAILURE TO MAKE REPORTS REQUIRED UNDER SECTIONS 3511, 6053(C)(8), AND 7705.—In the case of a failure to make a report required under section 3511, 6053(c)(8), or 7705 which contains the information required by such section on the date prescribed therefor (determined with regard to any extension of time for filing), there shall be paid (on notice and demand by the Secretary and in the same manner as tax) by the person failing to make such report, an amount equal to \$50 for each report with respect to which there was such a failure. In the case of any failure due to negligence or intentional disregard the preceding sentence shall be applied by substituting "\$100" for "\$50".

\* \* \* \* \*

## CHAPTER 76—JUDICIAL PROCEEDINGS

\* \* \* \* \*

### Subchapter B—Proceedings by Taxpayers and Third Parties

\* \* \* \* \*

#### SEC. 7428. DECLARATORY JUDGMENTS RELATING TO STATUS AND CLASSIFICATION OF ORGANIZATIONS UNDER SECTION 501(C)(3), ETC.

(a) CREATION OF REMEDY.—In a case of actual controversy involving—

(1) a determination by the Secretary—

(A) with respect to the initial qualification or continuing qualification of an organization as an organization described in section 501(c)(3) which is exempt from tax under section 501(a) or as an organization described in section 170(c)(2),

(B) with respect to the initial classification or continuing classification of an organization as a private foundation (as defined in section 509(a)),

(C) with respect to the initial classification or continuing classification of an organization as a private operating foundation (as defined in section 4942(j)(3)), or

(D) with respect to the initial classification or continuing classification of a cooperative as an organization described in section 521(b) which is exempt from tax under section 521(a), or

(2) a failure by the Secretary to make a determination with respect to an issue referred to in paragraph (1),

upon the filing of an appropriate pleading, the United States Tax Court, the United States Court of Federal Claims, or the district court of the United States for the District of Columbia may make a declaration with respect to such initial qualification or continuing qualification or with respect to such initial classification or continuing classification. Any such declaration shall have the force and effect of a decision of the Tax Court or a final judgment or decree

of the district court or the Court of Federal Claims, as the case may be, and shall be reviewable as such. For purposes of this section, a determination with respect to a continuing qualification or continuing classification includes any revocation of or other change in a qualification or classification.

(b) LIMITATIONS.—

(1) PETITIONER.—A pleading may be filed under this section only by the organization the qualification or classification of which is at issue.

(2) EXHAUSTION OF ADMINISTRATIVE REMEDIES.—A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Federal Claims, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service. An organization requesting the determination of an issue referred to in subsection (a)(1) shall be deemed to have exhausted its administrative remedies with respect to a failure by the Secretary to make a determination with respect to such issue at the expiration of 270 days after the date on which the request for such determination was made if the organization has taken, in a timely manner, all reasonable steps to secure such determination.

(3) TIME FOR BRINGING ACTION.—If the Secretary sends by certified or registered mail notice of his determination with respect to an issue referred to in subsection (a)(1) to the organization referred to in paragraph (1), no proceeding may be initiated under this section by such organization unless the pleading is filed before the 91st day after the date of such mailing.

(4) NONAPPLICATION FOR CERTAIN REVOCATIONS.—No action may be brought under this section with respect to any revocation of status described in section 6033(j)(1).

(c) VALIDATION OF CERTAIN CONTRIBUTIONS MADE DURING PENDENCY OF PROCEEDINGS.—

(1) IN GENERAL.—If—

(A) the issue referred to in subsection (a)(1) involves the revocation of a determination that the organization is described in section 170(c)(2),

(B) a proceeding under this section is initiated within the time provided by subsection (b)(3), and

(C) either—

(i) a decision of the Tax Court has become final (within the meaning of section 7481), or

(ii) a judgment of the district court of the United States for the District of Columbia has been entered, or

(iii) a judgment of the Court of Federal Claims, has been entered,

and such decision or judgment, as the case may be, determines that the organization was not described in section 170(c)(2),

then, notwithstanding such decision or judgment, such organization shall be treated as having been described in section 170(c)(2) for purposes of section 170 for the period beginning on the date on which the notice of the revocation was pub-

lished and ending on the date on which the court first determined in such proceeding that the organization was not described in section 170(c)(2).

(2) LIMITATION.—Paragraph (1) shall apply only—

(A) with respect to individuals, and only to the extent that the aggregate of the contributions made by any individual to or for the use of the organization during the period specified in paragraph (1) does not exceed \$1,000 (for this purpose treating a husband and wife as one contributor), and

(B) with respect to organizations described in section 170(c)(2) which are exempt from tax under section 501(a) (for this purpose excluding any such organization with respect to which there is pending a proceeding to revoke the determination under section 170(c)(2)).

(3) EXCEPTION.—This subsection shall not apply to any individual who was responsible, in whole or in part, for the activities (or failures to act) on the part of the organization which were the basis for the revocation.

(d) SUBPOENA POWER FOR DISTRICT COURT FOR DISTRICT OF COLUMBIA.—In any action brought under this section in the district court of the United States for the District of Columbia, a subpoena requiring the attendance of a witness at a trial or hearing may be served at any place in the United States.

\* \* \* \* \*

#### B. CHANGES IN EXISTING LAW PROPOSED BY THE BILL, AS REPORTED

In compliance with clause 3(e)(1)(B) of rule XIII of the Rules of the House of Representatives, changes in existing law proposed by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

#### CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e)(1)(B) of rule XIII of the Rules of the House of Representatives, changes in existing law proposed by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

#### INTERNAL REVENUE CODE OF 1986

\* \* \* \* \*

#### Subtitle A—Income Taxes

\* \* \* \* \*

#### CHAPTER 1—NORMAL TAXES AND SURTAXES

\* \* \* \* \*

## Subchapter F—Exempt Organizations

\* \* \* \* \*

### PART I—GENERAL RULE

\* \* \* \* \*

*Sec. 506. Organizations required to notify Secretary of intent to operate as 501(c)(4).*

\* \* \* \* \*

#### **SEC. 506. ORGANIZATIONS REQUIRED TO NOTIFY SECRETARY OF INTENT TO OPERATE AS 501(c)(4).**

(a) *IN GENERAL.*—An organization described in section 501(c)(4) shall, not later than 60 days after the organization is established, notify the Secretary (in such manner as the Secretary shall by regulation prescribe) that it is operating as such.

(b) *CONTENTS OF NOTICE.*—The notice required under subsection (a) shall include the following information:

(1) The name, address, and taxpayer identification number of the organization.

(2) The date on which, and the State under the laws of which, the organization was organized.

(3) A statement of the purpose of the organization.

(c) *ACKNOWLEDGMENT OF RECEIPT.*—Not later than 60 days after receipt of such a notice, the Secretary shall send to the organization an acknowledgment of such receipt.

(d) *EXTENSION FOR REASONABLE CAUSE.*—The Secretary may, for reasonable cause, extend the 60-day period described in subsection (a).

(e) *USER FEE.*—The Secretary shall impose a reasonable user fee for submission of the notice under subsection (a).

(f) *REQUEST FOR DETERMINATION.*—Upon request by an organization to be treated as an organization described in section 501(c)(4), the Secretary may issue a determination with respect to such treatment. Such request shall be treated for purposes of section 6104 as an application for exemption from taxation under section 501(a).

\* \* \* \* \*

## Subtitle F—Procedure and Administration

\* \* \* \* \*

### CHAPTER 61—INFORMATION AND RETURNS

\* \* \* \* \*

#### Subchapter A—Returns and Records

\* \* \* \* \*

### PART III—INFORMATION RETURNS

\* \* \* \* \*

## Subpart A—Information Concerning Persons Subject to Special Provisions

\* \* \* \* \*

### SEC. 6033. RETURNS BY EXEMPT ORGANIZATIONS.

#### (a) ORGANIZATIONS REQUIRED TO FILE.—

(1) IN GENERAL.—Except as provided in paragraph (3), every organization exempt from taxation under section 501(a) shall file an annual return, stating specifically the items of gross income, receipts, and disbursements, and such other information for the purpose of carrying out the internal revenue laws as the Secretary may by forms or regulations prescribe, and shall keep such records, render under oath such statements, make such other returns, and comply with such rules and regulations as the Secretary may from time to time prescribe; except that, in the discretion of the Secretary, any organization described in section 401(a) may be relieved from stating in its return any information which is reported in returns filed by the employer which established such organization.

(2) BEING A PARTY TO CERTAIN REPORTABLE TRANSACTIONS.—Every tax-exempt entity described in section 4965(c) shall file (in such form and manner and at such time as determined by the Secretary) a disclosure of—

(A) such entity's being a party to any prohibited tax shelter transaction (as defined in section 4965(e)), and

(B) the identity of any other party to such transaction which is known by such tax-exempt entity.

#### (3) EXCEPTIONS FROM FILING.—

(A) MANDATORY EXCEPTIONS.—Paragraph (1) shall not apply to—

(i) churches, their integrated auxiliaries, and conventions or associations of churches,

(ii) any organization (other than a private foundation, as defined in section 509(a)) described in subparagraph (C), the gross receipts of which in each taxable year are normally not more than \$5,000, or

(iii) the exclusively religious activities of any religious order.

(B) DISCRETIONARY EXCEPTIONS.—The Secretary may relieve any organization required under paragraph (1) (other than an organization described in section 509(a)(3)) to file an information return from filing such a return where he determines that such filing is not necessary to the efficient administration of the internal revenue laws.

(C) CERTAIN ORGANIZATIONS.—The organizations referred to in subparagraph (A)(ii) are—

(i) a religious organization described in section 501(c)(3);

(ii) an educational organization described in section 170(b)(1)(A)(ii);

(iii) a charitable organization, or an organization for the prevention of cruelty to children or animals, described in section 501(c)(3), if such organization is supported, in whole or in part, by funds contributed by the United States or any State or political subdivision

thereof, or is primarily supported by contributions of the general public;

(iv) an organization described in section 501(c)(3), if such organization is operated, supervised, or controlled by or in connection with a religious organization described in clause (i);

(v) an organization described in section 501(c)(8); and

(vi) an organization described in section 501(c)(1), if such organization is a corporation wholly owned by the United States or any agency or instrumentality thereof, or a wholly-owned subsidiary of such a corporation.

(b) CERTAIN ORGANIZATIONS DESCRIBED IN SECTION 501(C)(3).— Every organization described in section 501(c)(3) which is subject to the requirements of subsection (a) shall furnish annually information, at such time and in such manner as the Secretary may by forms or regulations prescribe, setting forth—

(1) its gross income for the year,

(2) its expenses attributable to such income and incurred within the year,

(3) its disbursements within the year for the purposes for which it is exempt,

(4) a balance sheet showing its assets, liabilities, and net worth as of the beginning of such year,

(5) the total of the contributions and gifts received by it during the year, and the names and addresses of all substantial contributors,

(6) the names and addresses of its foundation managers (within the meaning of section 4946(b)(1)) and highly compensated employees,

(7) the compensation and other payments made during the year to each individual described in paragraph (6),

(8) in the case of an organization with respect to which an election under section 501(h) is effective for the taxable year, the following amounts for such organization for such taxable year:

(A) the lobbying expenditures (as defined in section 4911(c)(1)),

(B) the lobbying nontaxable amount (as defined in section 4911(c)(2)),

(C) the grass roots expenditures (as defined in section 4911(c)(3)), and

(D) the grass roots nontaxable amount (as defined in section 4911(c)(4)),

(9) such other information with respect to direct or indirect transfers to, and other direct or indirect transactions and relationships with, other organizations described in section 501(c) (other than paragraph (3) thereof) or section 527 as the Secretary may require to prevent—

(A) diversion of funds from the organization's exempt purpose, or

(B) misallocation of revenues or expenses,

(10) the respective amounts (if any) of the taxes imposed on the organization, or any organization manager of the organiza-

tion, during the taxable year under any of the following provisions (and the respective amounts (if any) of reimbursements paid by the organization during the taxable year with respect to taxes imposed on any such organization manager under any of such provisions):

(A) section 4911 (relating to tax on excess expenditures to influence legislation),

(B) section 4912 (relating to tax on disqualifying lobbying expenditures of certain organizations),

(C) section 4955 (relating to taxes on political expenditures of section 501(c)(3) organizations), except to the extent that, by reason of section 4962, the taxes imposed under such section are not required to be paid or are credited or refunded, and

(D) section 4959 (relating to taxes on failures by hospital organizations),

(11) the respective amounts (if any) of—

(A) the taxes imposed with respect to the organization on any organization manager, or any disqualified person, during the taxable year under section 4958 (relating to taxes on private excess benefit from certain charitable organizations), and

(B) reimbursements paid by the organization during the taxable year with respect to taxes imposed under such section, except to the extent that, by reason of section 4962, the taxes imposed under such section are not required to be paid or are credited or refunded,

(12) such information as the Secretary may require with respect to any excess benefit transaction (as defined in section 4958),

(13) such information with respect to disqualified persons as the Secretary may prescribe,

(14) such information as the Secretary may require with respect to disaster relief activities, including the amount and use of qualified contributions to which section 1400S(a) applies,

(15) in the case of an organization to which the requirements of section 501(r) apply for the taxable year—

(A) a description of how the organization is addressing the needs identified in each community health needs assessment conducted under section 501(r)(3) and a description of any such needs that are not being addressed together with the reasons why such needs are not being addressed, and

(B) the audited financial statements of such organization (or, in the case of an organization the financial statements of which are included in a consolidated financial statement with other organizations, such consolidated financial statement).

(16) such other information for purposes of carrying out the internal revenue laws as the Secretary may require.

For purposes of paragraph (8), if section 4911(f) applies to the organization for the taxable year, such organization shall furnish the amounts with respect to the affiliated group as well as with respect to such organization.

(c) ADDITIONAL PROVISIONS RELATING TO PRIVATE FOUNDATIONS.—In the case of an organization which is a private foundation (within the meaning of section 509(a))—

(1) the Secretary shall by regulations provide that the private foundation shall include in its annual return under this section such information (not required to be furnished by subsection (b) or the forms or regulations prescribed thereunder) as would have been required to be furnished under section 6056 (relating to annual reports by private foundations) as such section 6056 was in effect on January 1, 1979, and

(2) the foundation managers shall furnish copies of the annual return under this section to such State officials, at such times, and under such conditions, as the Secretary may by regulations prescribe.

Nothing in paragraph (1) shall require the inclusion of the name and address of any recipient (other than a disqualified person within the meaning of section 4946) of 1 or more charitable gifts or grants made by the foundation to such recipient as an indigent or needy person if the aggregate of such gifts or grants made by the foundation to such recipient during the year does not exceed \$1,000.

(d) SECTION TO APPLY TO NONEXEMPT CHARITABLE TRUSTS AND NONEXEMPT PRIVATE FOUNDATIONS.—The following organizations shall comply with the requirements of this section in the same manner as organizations described in section 501(c)(3) which are exempt from tax under section 501(a):

(1) NONEXEMPT CHARITABLE TRUSTS.—A trust described in section 4947(a)(1) (relating to nonexempt charitable trusts).

(2) NONEXEMPT PRIVATE FOUNDATIONS.—A private foundation which is not exempt from tax under section 501(a).

(e) SPECIAL RULES RELATING TO LOBBYING ACTIVITIES.—

(1) REPORTING REQUIREMENTS.—

(A) IN GENERAL.—If this subsection applies to an organization for any taxable year, such organization—

(i) shall include on any return required to be filed under subsection (a) for such year information setting forth the total expenditures of the organization to which section 162(e)(1) applies and the total amount of the dues or other similar amounts paid to the organization to which such expenditures are allocable, and

(ii) except as provided in paragraphs (2)(A)(i) and (3), shall, at the time of assessment or payment of such dues or other similar amounts, provide notice to each person making such payment which contains a reasonable estimate of the portion of such dues or other similar amounts to which such expenditures are so allocable.

(B) ORGANIZATIONS TO WHICH SUBSECTION APPLIES.—

(i) IN GENERAL.—This subsection shall apply to any organization which is exempt from taxation under section 501 other than an organization described in section 501(c)(3).

(ii) SPECIAL RULE FOR IN-HOUSE EXPENDITURES.—This subsection shall not apply to the in-house expenditures (within the meaning of section

162(e)(5)(B)(ii)) of an organization for a taxable year if such expenditures do not exceed \$2,000. In determining whether a taxpayer exceeds the \$2,000 limit under this clause, there shall not be taken into account overhead costs otherwise allocable to activities described in subparagraphs (A) and (D) of section 162(e)(1).

(iii) COORDINATION WITH SECTION 527(F).—This subsection shall not apply to any amount on which tax is imposed by reason of section 527(f).

(C) ALLOCATION.—For purposes of this paragraph—

(i) IN GENERAL.—Expenditures to which section 162(e)(1) applies shall be treated as paid out of dues or other similar amounts to the extent thereof.

(ii) CARRYOVER OF LOBBYING EXPENDITURES IN EXCESS OF DUES.—If expenditures to which section 162(e)(1) applies exceed the dues or other similar amounts for any taxable year, such excess shall be treated as expenditures to which section 162(e)(1) applies which are paid or incurred by the organization during the following taxable year.

(2) TAX IMPOSED WHERE ORGANIZATION DOES NOT NOTIFY.—

(A) IN GENERAL.—If an organization—

(i) elects not to provide the notices described in paragraph (1)(A) for any taxable year, or

(ii) fails to include in such notices the amount allocable to expenditures to which section 162(e)(1) applies (determined on the basis of actual amounts rather than the reasonable estimates under paragraph (1)(A)(ii)),

then there is hereby imposed on such organization for such taxable year a tax in an amount equal to the product of the highest rate of tax imposed by section 11 for the taxable year and the aggregate amount not included in such notices by reason of such election or failure.

(B) WAIVER WHERE FUTURE ADJUSTMENTS MADE.—The Secretary may waive the tax imposed by subparagraph (A)(ii) for any taxable year if the organization agrees to adjust its estimates under paragraph (1)(A)(ii) for the following taxable year to correct any failures.

(C) TAX TREATED AS INCOME TAX.—For purposes of this title, the tax imposed by subparagraph (A) shall be treated in the same manner as a tax imposed by chapter 1 (relating to income taxes).

(3) EXCEPTION WHERE DUES GENERALLY NONDEDUCTIBLE.—

Paragraph (1)(A) shall not apply to an organization which establishes to the satisfaction of the Secretary that substantially all of the dues or other similar amounts paid by persons to such organization are not deductible without regard to section 162(e).

(f) CERTAIN ORGANIZATIONS DESCRIBED IN SECTION 501(C)(4).—Every organization described in section 501(c)(4) which is subject to the requirements of subsection (a) shall [include on the return required under subsection (a) the information] *include on the return required under subsection (a)*—

(1) the information referred to in paragraphs (11), (12) and (13) of subsection (b) with respect to such organization [ ], and  
 (2) in the case of the first such return filed by such an organization after submitting a notice to the Secretary under section 506(a), such information as the Secretary shall by regulation require in support of the organization's treatment as an organization described in section 501(c)(4).

(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.

(h) CONTROLLING ORGANIZATIONS.—Each controlling organization (within the meaning of section 512(b)(13)) which is subject to the requirements of subsection (a) shall include on the return required under subsection (a)—

(1) any interest, annuities, royalties, or rents received from each controlled entity (within the meaning of section 512(b)(13)),

(2) any loans made to each such controlled entity, and

(3) any transfers of funds between such controlling organization and each such controlled entity.

(i) ADDITIONAL NOTIFICATION REQUIREMENTS.—Any organization the gross receipts of which in any taxable year result in such organization being referred to in subsection (a)(3)(A)(ii) or (a)(3)(B)—

(1) shall furnish annually, in electronic form, and at such time and in such manner as the Secretary may by regulations prescribe, information setting forth—

(A) the legal name of the organization,

(B) any name under which such organization operates or does business,

(C) the organization's mailing address and Internet web site address (if any),

(D) the organization's taxpayer identification number,

(E) the name and address of a principal officer, and

(F) evidence of the continuing basis for the organization's exemption from the filing requirements under subsection (a)(1), and

(2) upon the termination of the existence of the organization, shall furnish notice of such termination.

(j) LOSS OF EXEMPT STATUS FOR FAILURE TO FILE RETURN OR NOTICE.—

(1) IN GENERAL.—If an organization described in subsection (a)(1) or (i) fails to file an annual return or notice required under either subsection for 3 consecutive years, such organization's status as an organization exempt from tax under section 501(a) shall be considered revoked on and after the date set by the Secretary for the filing of the third annual return or notice. The Secretary shall publish and maintain a list of any organization the status of which is so revoked.

(2) APPLICATION NECESSARY FOR REINSTATEMENT.—Any organization the tax-exempt status of which is revoked under paragraph (1) must apply in order to obtain reinstatement of such status regardless of whether such organization was originally required to make such an application.

(3) RETROACTIVE REINSTATEMENT IF REASONABLE CAUSE SHOWN FOR FAILURE.—If, upon application for reinstatement of status as an organization exempt from tax under section 501(a), an organization described in paragraph (1) can show to the satisfaction of the Secretary evidence of reasonable cause for the failure described in such paragraph, the organization's exempt status may, in the discretion of the Secretary, be reinstated effective from the date of the revocation under such paragraph.

(k) ADDITIONAL PROVISIONS RELATING TO SPONSORING ORGANIZATIONS.—Every organization described in section 4966(d)(1) shall, on the return required under subsection (a) for the taxable year—

(1) list the total number of donor advised funds (as defined in section 4966(d)(2)) it owns at the end of such taxable year,

(2) indicate the aggregate value of assets held in such funds at the end of such taxable year, and

(3) indicate the aggregate contributions to and grants made from such funds during such taxable year.

(l) ADDITIONAL PROVISIONS RELATING TO SUPPORTING ORGANIZATIONS.—Every organization described in section 509(a)(3) shall, on the return required under subsection (a)—

- (1) list the supported organizations (as defined in section 509(f)(3)) with respect to which such organization provides support,
- (2) indicate whether the organization meets the requirements of clause (i), (ii), or (iii) of section 509(a)(3)(B), and
- (3) certify that the organization meets the requirements of section 509(a)(3)(C).

(m) ADDITIONAL INFORMATION REQUIRED FROM CO-OP INSURERS.—An organization described in section 501(c)(29) shall include on the return required under subsection (a) the following information:

- (1) The amount of the reserves required by each State in which the organization is licensed to issue qualified health plans.
- (2) The amount of reserves on hand.

(n) CROSS REFERENCES.—For provisions relating to statements, etc., regarding exempt status of organizations, see section 6001. For reporting requirements as to certain liquidations, dissolutions, terminations, and contractions, see section 6043(b). For provisions relating to penalties for failure to file a return required by this section, see section 6652(c). For provisions relating to information required in connection with certain plans of deferred compensation, see section 6058.

\* \* \* \* \*

## **CHAPTER 68—ADDITIONS TO THE TAX, ADDITIONAL AMOUNTS, AND ASSESSABLE PENALTIES**

\* \* \* \* \*

### **Subchapter A—Additions to the Tax and Additional Amounts**

\* \* \* \* \*

#### **PART I—GENERAL PROVISIONS**

\* \* \* \* \*

##### **SEC. 6652. FAILURE TO FILE CERTAIN INFORMATION RETURNS, REGISTRATION STATEMENTS, ETC.**

(a) RETURNS WITH RESPECT TO CERTAIN PAYMENTS AGGREGATING LESS THAN \$10.—In the case of each failure to file a statement of a payment to another person required under the authority of—

- (1) section 6042(a)(2) (relating to payments of dividends aggregating less than \$10), or
- (2) section 6044(a)(2) (relating to payments of patronage dividends aggregating less than \$10),

on the date prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause and not to willful neglect, there shall be paid (upon notice and demand by the Secretary and in the same manner as tax) by the person failing to so file the statement, \$1 for each such statement not so filed, but the total amount imposed on the delinquent person for all such failures during the calendar year shall not exceed \$1,000.

(b) FAILURE TO REPORT TIPS.—In the case of failure by an employee to report to his employer on the date and in the manner prescribed therefor any amount of tips required to be so reported by section 6053(a) which are wages (as defined in section 3121(a)) or which are compensation (as defined in section 3231(e)), unless it is shown that such failure is due to reasonable cause and not due to willful neglect, there shall be paid by the employee, in addition to the tax imposed by section 3101 or section 3201 (as the case may be) with respect to the amount of tips which he so failed to report, an amount equal to 50 percent of such tax.

(c) RETURNS BY EXEMPT ORGANIZATIONS AND BY CERTAIN TRUSTS.—

(1) ANNUAL RETURNS UNDER SECTION 6033(A)(1) OR 6012(A)(6).—

(A) PENALTY ON ORGANIZATION.—In the case of—

(i) a failure to file a return required under section 6033(a)(1) (relating to returns by exempt organizations) or section 6012(a)(6) (relating to returns by political organizations) on the date and in the manner prescribed therefor (determined with regard to any extension of time for filing), or

(ii) a failure to include any of the information required to be shown on a return filed under section 6033(a)(1) or section 6012(a)(6) or to show the correct information,

there shall be paid by the exempt organization \$20 for each day during which such failure continues. The maximum penalty under this subparagraph on failures with respect to any 1 return shall not exceed the lesser of \$10,000 or 5 percent of the gross receipts of the organization for the year. In the case of an organization having gross receipts exceeding \$1,000,000 for any year, with respect to the return required under section 6033(a)(1) or section 6012(a)(6) for such year, in applying the first sentence of this subparagraph, the amount of the penalty for each day during which a failure continues shall be \$100 in lieu of the amount otherwise specified, and, in lieu of applying the second sentence of this subparagraph, the maximum penalty under this subparagraph shall not exceed \$50,000.

(B) MANAGERS.—

(i) IN GENERAL.—The Secretary may make a written demand on any organization subject to penalty under subparagraph (A) specifying therein a reasonable future date by which the return shall be filed (or the information furnished) for purposes of this subparagraph.

(ii) FAILURE TO COMPLY WITH DEMAND.—If any person fails to comply with any demand under clause (i) on or before the date specified in such demand, there shall be paid by the person failing to so comply \$10 for each day after the expiration of the time specified in such demand during which such failure continues. The maximum penalty imposed under this subparagraph on all persons for failures with respect to any 1 return shall not exceed \$5,000.

(C) PUBLIC INSPECTION OF ANNUAL RETURNS AND REPORTS.—In the case of a failure to comply with the requirements of section 6104(d) with respect to any annual return on the date and in the manner prescribed therefor (determined with regard to any extension of time for filing) or report required under section 527(j), there shall be paid by the person failing to meet such requirements \$20 for each day during which such failure continues. The maximum penalty imposed under this subparagraph on all persons for failures with respect to any 1 return or report shall not exceed \$10,000.

(D) PUBLIC INSPECTION OF APPLICATIONS FOR EXEMPTION AND NOTICE OF STATUS.—In the case of a failure to comply with the requirements of section 6104(d) with respect to any exempt status application materials (as defined in such section) or notice materials (as defined in such section) on the date and in the manner prescribed therefor, there shall be paid by the person failing to meet such requirements \$20 for each day during which such failure continues.

(E) NO PENALTY FOR CERTAIN ANNUAL NOTICES.—This paragraph shall not apply with respect to any notice required under section 6033(i).

(2) RETURNS UNDER SECTION 6034 OR 6043(B).—

(A) PENALTY ON ORGANIZATION OR TRUST.—In the case of a failure to file a return required under section 6034 (relating to returns by certain trusts) or section 6043(b) (relating to terminations, etc., of exempt organizations), on the date and in the manner prescribed therefor (determined with regard to any extension of time for filing), there shall be paid by the exempt organization or trust failing so to file \$10 for each day during which such failure continues, but the total amount imposed under this subparagraph on any organization or trust for failure to file any 1 return shall not exceed \$5,000.

(B) MANAGERS.—The Secretary may make written demand on an organization or trust failing to file under subparagraph (A) specifying therein a reasonable future date by which such filing shall be made for purposes of this subparagraph. If such filing is not made on or before such date, there shall be paid by the person failing so to file \$10 for each day after the expiration of the time specified in the written demand during which such failure continues, but the total amount imposed under this subparagraph on all persons for failure to file any 1 return shall not exceed \$5,000.

(C) SPLIT-INTEREST TRUSTS.—In the case of a trust which is required to file a return under section 6034(a), subparagraphs (A) and (B) of this paragraph shall not apply and paragraph (1) shall apply in the same manner as if such return were required under section 6033, except that—

- (i) the 5 percent limitation in the second sentence of paragraph (1)(A) shall not apply,
- (ii) in the case of any trust with gross income in excess of \$250,000, in applying the first sentence of paragraph (1)(A), the amount of the penalty for each day during which a failure continues shall be \$100 in lieu of the amount otherwise specified, and in lieu of applying the second sentence of paragraph (1)(A), the maximum penalty under paragraph (1)(A) shall not exceed \$50,000, and
- (iii) the third sentence of paragraph (1)(A) shall be disregarded.

In addition to any penalty imposed on the trust pursuant to this subparagraph, if the person required to file such return knowingly fails to file the return, such penalty shall also be imposed on such person who shall be personally liable for such penalty.

(3) DISCLOSURE UNDER SECTION 6033(A)(2).—

(A) PENALTY ON ENTITIES.—In the case of a failure to file a disclosure required under section 6033(a)(2), there shall be paid by the tax-exempt entity (the entity manager in the case of a tax-exempt entity described in paragraph (4), (5), (6), or (7) of section 4965(c)) \$100 for each day during which such failure continues. The maximum penalty under this subparagraph on failures with respect to any 1 disclosure shall not exceed \$50,000.

(B) WRITTEN DEMAND.—

(i) IN GENERAL.—The Secretary may make a written demand on any entity or manager subject to penalty under subparagraph (A) specifying therein a reasonable future date by which the disclosure shall be filed for purposes of this subparagraph.

(ii) FAILURE TO COMPLY WITH DEMAND.—If any entity or manager fails to comply with any demand under clause (i) on or before the date specified in such demand, there shall be paid by such entity or manager failing to so comply \$100 for each day after the expiration of the time specified in such demand during which such failure continues. The maximum penalty imposed under this subparagraph on all entities and managers for failures with respect to any 1 disclosure shall not exceed \$10,000.

(C) DEFINITIONS.—Any term used in this section which is also used in section 4965 shall have the meaning given such term under section 4965.

(4) NOTICES UNDER SECTION 506.—

(A) PENALTY ON ORGANIZATION.—*In the case of a failure to submit a notice required under section 506(a) (relating to organizations required to notify Secretary of intent to operate as 501(c)(4)) on the date and in the manner pre-*

*scribed therefor, there shall be paid by the organization failing to so submit \$20 for each day during which such failure continues, but the total amount imposed under this subparagraph on any organization for failure to submit any one notice shall not exceed \$5,000.*

*(B) MANAGERS.—The Secretary may make written demand on an organization subject to penalty under subparagraph (A) specifying in such demand a reasonable future date by which the notice shall be submitted for purposes of this subparagraph. If such notice is not submitted on or before such date, there shall be paid by the person failing to so submit \$20 for each day after the expiration of the time specified in the written demand during which such failure continues, but the total amount imposed under this subparagraph on all persons for failure to submit any one notice shall not exceed \$5,000.*

**[(4)] (5) REASONABLE CAUSE EXCEPTION.**—No penalty shall be imposed under this subsection with respect to any failure if it is shown that such failure is due to reasonable cause.

**[(5)] (6) OTHER SPECIAL RULES.**—

*(A) TREATMENT AS TAX.—Any penalty imposed under this subsection shall be paid on notice and demand of the Secretary and in the same manner as tax.*

*(B) JOINT AND SEVERAL LIABILITY.—If more than 1 person is liable under this subsection for any penalty with respect to any failure, all such persons shall be jointly and severally liable with respect to such failure.*

*(C) PERSON.—For purposes of this subsection, the term “person” means any officer, director, trustee, employee, or other individual who is under a duty to perform the act in respect of which the violation occurs.*

**[(6)] (7) ADJUSTMENT FOR INFLATION.**—

*(A) IN GENERAL.—In the case of any failure relating to a return required to be filed in a calendar year beginning after 2014, each of the dollar amounts under paragraphs (1), (2), and (3) shall be increased by such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) determined by substituting “calendar year 2013” for “calendar year 1992” in subparagraph (B) thereof.*

*(B) ROUNDING.—If any amount adjusted under subparagraph (A)—*

*(i) is not less than \$5,000 and is not a multiple of \$500, such amount shall be rounded to the next lowest multiple of \$500, and*

*(ii) is not described in clause (i) and is not a multiple of \$5, such amount shall be rounded to the next lowest multiple of \$5.*

**(d) ANNUAL REGISTRATION AND OTHER NOTIFICATION BY PENSION PLAN.**—

*(1) REGISTRATION.—In the case of any failure to file a registration statement required under section 6057(a) (relating to annual registration of certain plans) which includes all participants required to be included in such statement, on the date prescribed therefor (determined without regard to any exten-*

sion of time for filing), unless it is shown that such failure is due to reasonable cause, there shall be paid (on notice and demand by the Secretary and in the same manner as tax) by the person failing so to file, an amount equal to \$1 for each participant with respect to whom there is a failure to file, multiplied by the number of days during which such failure continues, but the total amount imposed under this paragraph on any person for any failure to file with respect to any plan year shall not exceed \$5,000.

(2) NOTIFICATION OF CHANGE OF STATUS.—In the case of failure to file a notification required under section 6057(b) (relating to notification of change of status) on the date prescribed therefor (determined without regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause, there shall be paid (on notice and demand by the Secretary and in the same manner as tax) by the person failing so to file, \$1 for each day during which such failure continues, but the total amounts imposed under this paragraph on any person for failure to file any notification shall not exceed \$1,000.

(e) INFORMATION REQUIRED IN CONNECTION WITH CERTAIN PLANS OF DEFERRED COMPENSATION, ETC.—In the case of failure to file a return or statement required under section 6058 (relating to information required in connection with certain plans of deferred compensation), 6047 (relating to information relating to certain trusts and annuity and bond purchase plans), or 6039D (relating to returns and records with respect to certain fringe benefit plans) on the date and in the manner prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause, there shall be paid (on notice and demand by the Secretary and in the same manner as tax) by the person failing so to file, \$25 for each day during which such failure continues, but the total amount imposed under this subsection on any person for failure to file any return shall not exceed \$15,000. This subsection shall not apply to any return or statement which is an information return described in section 6724(d)(1)(C)(ii) or a payee statement described in section 6724(d)(2)(Y).

(f) RETURNS REQUIRED UNDER SECTION 6039C.—

(1) IN GENERAL.—In the case of each failure to make a return required by section 6039C which contains the information required by such section on the date prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause and not to willful neglect, the amount determined under paragraph (2) shall be paid (upon notice and demand by the Secretary and in the same manner as tax) by the person failing to make such return.

(2) AMOUNT OF PENALTY.—For purposes of paragraph (1), the amount determined under this paragraph with respect to any failure shall be \$25 for each day during which such failure continues.

(3) LIMITATION.—The amount determined under paragraph (2) with respect to any person for failing to meet the require-

ments of section 6039C for any calendar year shall not exceed the lesser of—

- (A) \$25,000, or
- (B) 5 percent of the aggregate of the fair market value of the United States real property interests owned by such person at any time during such year.

For purposes of the preceding sentence, fair market value shall be determined as of the end of the calendar year (or, in the case of any property disposed of during the calendar year, as of the date of such disposition).

(h) FAILURE TO GIVE NOTICE TO RECIPIENTS OF CERTAIN PENSION, ETC., DISTRIBUTIONS.—In the case of each failure to provide notice as required by section 3405(e)(10)(B), at the time prescribed therefor, unless it is shown that such failure is due to reasonable cause and not to willful neglect, there shall be paid, on notice and demand of the Secretary and in the same manner as tax, by the person failing to provide such notice, an amount equal to \$10 for each such failure, but the total amount imposed on such person for all such failures during any calendar year shall not exceed \$5,000.

(i) FAILURE TO GIVE WRITTEN EXPLANATION TO RECIPIENTS OF CERTAIN QUALIFYING ROLLOVER DISTRIBUTIONS.—In the case of each failure to provide a written explanation as required by section 402(f), at the time prescribed therefor, unless it is shown that such failure is due to reasonable cause and not to willful neglect, there shall be paid, on notice and demand of the Secretary and in the same manner as tax, by the person failing to provide such written explanation, an amount equal to \$100 for each such failure, but the total amount imposed on such person for all such failures during any calendar year shall not exceed \$50,000.

(j) FAILURE TO FILE CERTIFICATION WITH RESPECT TO CERTAIN RESIDENTIAL RENTAL PROJECTS.—In the case of each failure to provide a certification as required by section 142(d)(7) at the time prescribed therefor, unless it is shown that such failure is due to reasonable cause and not to willful neglect, there shall be paid, on notice and demand of the Secretary and in the same manner as tax, by the person failing to provide such certification, an amount equal to \$100 for each such failure.

(k) FAILURE TO MAKE REPORTS REQUIRED UNDER SECTION 1202.—

In the case of a failure to make a report required under section 1202(d)(1)(C) which contains the information required by such section on the date prescribed therefor (determined with regard to any extension of time for filing), there shall be paid (on notice and demand by the Secretary and in the same manner as tax) by the person failing to make such report, an amount equal to \$50 for each report with respect to which there was such a failure. In the case of any failure due to negligence or intentional disregard, the preceding sentence shall be applied by substituting "\$100" for "\$50". In the case of a report covering periods in 2 or more years, the penalty determined under preceding provisions of this subsection shall be multiplied by the number of such years. No penalty shall be imposed under this subsection on any failure which is shown to be due to reasonable cause and not willful neglect.

(l) FAILURE TO FILE RETURN WITH RESPECT TO CERTAIN CORPORATE TRANSACTIONS.—In the case of any failure to make a re-

turn required under section 6043(c) containing the information required by such section on the date prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause, there shall be paid (on notice and demand by the Secretary and in the same manner as tax) by the person failing to file such return, an amount equal to \$500 for each day during which such failure continues, but the total amount imposed under this subsection with respect to any return shall not exceed \$100,000.

(m) ALCOHOL AND TOBACCO TAXES FOR PENALTIES FOR FAILURE TO FILE CERTAIN INFORMATION RETURNS.—with respect to alcohol and tobacco taxes, see, generally, subtitle E.

(n) FAILURE TO MAKE REPORTS REQUIRED UNDER SECTIONS 3511, 6053(C)(8), AND 7705.—In the case of a failure to make a report required under section 3511, 6053(c)(8), or 7705 which contains the information required by such section on the date prescribed therefor (determined with regard to any extension of time for filing), there shall be paid (on notice and demand by the Secretary and in the same manner as tax) by the person failing to make such report, an amount equal to \$50 for each report with respect to which there was such a failure. In the case of any failure due to negligence or intentional disregard the preceding sentence shall be applied by substituting "\$100" for "\$50".

\* \* \* \* \*

## CHAPTER 76—JUDICIAL PROCEEDINGS

\* \* \* \* \*

### **Subchapter B—Proceedings by Taxpayers and Third Parties**

\* \* \* \* \*

#### **SEC. 7428. DECLARATORY JUDGMENTS RELATING TO STATUS AND CLASSIFICATION OF ORGANIZATIONS UNDER SECTION 501(C)(3), ETC.**

(a) CREATION OF REMEDY.—In a case of actual controversy involving—

(1) a determination by the Secretary—

(A) with respect to the initial qualification or continuing qualification of an organization as an organization described in section 501(c)(3) which is exempt from tax under section 501(a) or as an organization described in section 170(c)(2),

(B) with respect to the initial classification or continuing classification of an organization as a private foundation (as defined in section 509(a)),

(C) with respect to the initial classification or continuing classification of an organization as a private operating foundation (as defined in section 4942(j)(3)), **【or】**

(D) with respect to the initial classification or continuing classification of a cooperative as an organization described in section 521(b) which is exempt from tax under section 521(a), or

*(E) with respect to the initial classification or continuing classification of an organization described in section 501(c)(4) which is exempt from tax under section 501(a), or*  
 (2) a failure by the Secretary to make a determination with respect to an issue referred to in paragraph (1), upon the filing of an appropriate pleading, the United States Tax Court, the United States Court of Federal Claims, or the district court of the United States for the District of Columbia may make a declaration with respect to such initial qualification or continuing qualification or with respect to such initial classification or continuing classification. Any such declaration shall have the force and effect of a decision of the Tax Court or a final judgment or decree of the district court or the Court of Federal Claims, as the case may be, and shall be reviewable as such. For purposes of this section, a determination with respect to a continuing qualification or continuing classification includes any revocation of or other change in a qualification or classification.

(b) LIMITATIONS.—

(1) PETITIONER.—A pleading may be filed under this section only by the organization the qualification or classification of which is at issue.

(2) EXHAUSTION OF ADMINISTRATIVE REMEDIES.—A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Federal Claims, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service. An organization requesting the determination of an issue referred to in subsection (a)(1) shall be deemed to have exhausted its administrative remedies with respect to a failure by the Secretary to make a determination with respect to such issue at the expiration of 270 days after the date on which the request for such determination was made if the organization has taken, in a timely manner, all reasonable steps to secure such determination.

(3) TIME FOR BRINGING ACTION.—If the Secretary sends by certified or registered mail notice of his determination with respect to an issue referred to in subsection (a)(1) to the organization referred to in paragraph (1), no proceeding may be initiated under this section by such organization unless the pleading is filed before the 91st day after the date of such mailing.

(4) NONAPPLICATION FOR CERTAIN REVOCATIONS.—No action may be brought under this section with respect to any revocation of status described in section 6033(j)(1).

(c) VALIDATION OF CERTAIN CONTRIBUTIONS MADE DURING PENDENCY OF PROCEEDINGS.—

(1) IN GENERAL.—If—

(A) the issue referred to in subsection (a)(1) involves the revocation of a determination that the organization is described in section 170(c)(2),

(B) a proceeding under this section is initiated within the time provided by subsection (b)(3), and

(C) either—

(i) a decision of the Tax Court has become final (within the meaning of section 7481), or

(ii) a judgment of the district court of the United States for the District of Columbia has been entered, or

(iii) a judgment of the Court of Federal Claims, has been entered,

and such decision or judgment, as the case may be, determines that the organization was not described in section 170(c)(2),

then, notwithstanding such decision or judgment, such organization shall be treated as having been described in section 170(c)(2) for purposes of section 170 for the period beginning on the date on which the notice of the revocation was published and ending on the date on which the court first determined in such proceeding that the organization was not described in section 170(c)(2).

(2) LIMITATION.—Paragraph (1) shall apply only—

(A) with respect to individuals, and only to the extent that the aggregate of the contributions made by any individual to or for the use of the organization during the period specified in paragraph (1) does not exceed \$1,000 (for this purpose treating a husband and wife as one contributor), and

(B) with respect to organizations described in section 170(c)(2) which are exempt from tax under section 501(a) (for this purpose excluding any such organization with respect to which there is pending a proceeding to revoke the determination under section 170(c)(2)).

(3) EXCEPTION.—This subsection shall not apply to any individual who was responsible, in whole or in part, for the activities (or failures to act) on the part of the organization which were the basis for the revocation.

(d) SUBPOENA POWER FOR DISTRICT COURT FOR DISTRICT OF COLUMBIA.—In any action brought under this section in the district court of the United States for the District of Columbia, a subpoena requiring the attendance of a witness at a trial or hearing may be served at any place in the United States.

\* \* \* \* \*

## VII. ADDITIONAL VIEWS

We support the improvements made by H.R. 1295 for section 501(c)(4) organizations applying to the Internal Revenue Service for tax exemption. However, we believe the bill can do more.

Currently, section 501(c)(4) organizations are permitted to engage in political campaign activities. However, an organization's primary activity cannot be engaging in political campaigning. We are concerned that the information that would be provided in the newly required notice and first annual information return of the organization may not be sufficient to identify in all cases organizations engaging in an impermissible amount of political activity.

According to the Center for Responsive Politics, section 501(c)(4) organizations spent more than \$250 million during the 2012 election cycle, up from \$92 million in 2010 and just \$1 million in 2006. Given the increase in spending by section 501(c)(4) organizations, Democrats on the Committee offered an amendment that would require these organizations to include statements in their notice and first information return indicating whether they engaged, or plan to engage, in political activity or filed, or plan to file, reports with the Federal Election Commission. The Republicans voted against this amendment.

Sincerely,

SANDER M. LEVIN,  
*Ranking Member.*

