

Taxation of Political Campaign Committees

Internal Revenue Code Subsection (a) of section 527 provides that political organizations are treated as tax-exempt organizations, and are subject to tax only as provided in section 527. "Political organizations" may include political parties, committees, associations, funds (including the trust of an individual candidate), or similar political organization. A bank account may also qualify as a political organization (Rev. Rul. 79-11, 1979-2, I.R.B. 8). The tax imposed consists of a normal tax and surtax computed as though the political organization were a corporation. The taxable income of such an organization is the "political organization taxable income", which excludes contributions of money or other property, membership dues, and money from fund-raising events to the extent such amounts are segregated in separate accounts and used for political campaign purposes.

Political organization taxable income includes income from the investment of funds, dividends, and capital gains, less direct expenses incurred in earning such income.

To be treated as a political organization for tax purposes, an organization must be operated primarily to receive money or make expenditures for influencing the nomination, election or appointment of individuals to public office or office in a political organization. However, the organization need not be exclusively political.

Individual or Unincorporated Organizations

This Department has been asked whether an unincorporated organization organized and operated for political purposes is subject to the personal income tax imposed by Article 22 of the Tax Law, or the unincorporated business income tax imposed by Article 23 of the Tax Law.

A "political organization" as defined by section 527(e)(1) of the Internal Revenue Code is taxed for Federal tax purposes as though it were a corporation. An unincorporated organization organized and operated primarily for the purpose of accepting contributions or making expenditures to influence the selection, nomination, election or appointment of any individual to any Federal, State or local office or office in a political organization would qualify as a "political organization" and would be taxed as a corporation for Federal tax purposes. Such an organization would not be subject to New York State personal income tax. Section 601(c) of the Tax Law provides that an association or trust which is taxable as a corporation for Federal income tax purposes is not subject to the personal income tax.

Unincorporated business tax is imposed on every unincorporated business carried on within this State. However, since the term "business" or "doing business" connotes activity for the purpose of gain or profit, the activities of a nonprofit political campaign committee do not constitute "doing business" within the intent of the unincorporated business tax and are not subject to tax under article 23.

Newsletters

Under section 527(g)(1) of the Internal Revenue Code, a qualifying newsletter fund is treated as if it were a political organization (with certain modifications) and accordingly is not subject to New York personal income tax or unincorporated business income tax.

Filing Requirements

The political organizations which are not subject to New York personal income tax or unincorporated business income tax are not required to file returns under any of those taxes.

Unexpended Campaign Funds

For Federal purposes, income is not realized by the candidate, the political organization, nor by the contributors upon a transfer of unexpended campaign funds to the United States Government, and no deduction is allowed for that transfer. Since campaign funds, which are transferred to the United States Government, are not includible in the Federal adjusted gross income of the candidate or of the contributors, such amounts are also not includible in their New York adjusted gross income. These transferred funds are, therefore, not considered to be taxable income to the candidate or to the contributors for purposes of New York personal income tax.

A charitable contribution by an individual to the United States Government would qualify as a deduction under section 170 of the Internal Revenue Code. However, under subsection (d) of section 527 of the Code, no deduction is allowed to the candidate or any other person or committee for a contribution of unexpended campaign funds to the United States. The Tax Law provides no New York modification for such contributions, therefore, they are not deductible for purposes of New York personal income tax by the candidate or by any of the contributors to the campaign fund.