

1. No organization is exempt from taxation under IRC 527. The provisions of IRC 501(c) confer that status. An organization must apply for one of the several exemptions available under IRC 501(c). The IRS may grant or deny the exemption. The exemption may be rescinded if the organization's operations cease to conform to the parameters of the exemption.

Any organization may designate itself as a political committee simply by registering with the IRS or with any federal, state or local public agency that regulates campaign finance. No application or prior approval is required. The distinction, which the ruling tries to make between political committees and 527 organizations, does not exist. All registered political committees are automatically 527 organizations. The ruling also ignores part of 527(3)(2) "or office in a political organization, or the election of Presidential or Vice-Presidential electors").

The ruling should distinguish between a 527 organization generally and a Qualified State or locale political organization. 527(e)(5).

A 501(c) organization is exempt from all forms of taxation, while under section 527 a political organization "shall be subject to taxation under this subtitle only to the extent provided in this section. A political organization shall be considered an organization exempt from income taxes for the purpose of any law which refers to organizations exempt from income taxes." For any taxable year the tax provided by section 527 is computed by multiplying the political organization's taxable income (gross income reduced by allowed deductions and exclusions) by the highest corporate tax rate in effect for that year. This is not a trivial tax. Corporate tax rates can be as high as 40%. A 527 organization must also pay other forms of taxation such as state and local sales and property taxes.

2. The SEEC may not have a definition of "earmarked" but it has discussed a closely related subject. Sometime between 1998 and 2004 I discovered local bylaws that prohibited the local party from providing funds or party services to any candidate in a pre-endorsement contest or primary, unless the funds were contributed to the party specifically to be forwarded to a specific candidate committee. I asked Al Lenge how such a transaction should be reported. I know he responded, probably in an Opinion of Counsel, but I cannot find a copy. You may have better luck.

3. The ruling's comments on § 9-602 on pages 4-5 incorrectly adds "making expenditures independently of a candidate, party or political committee," The citation on page 12 correctly quotes the section.

4. The discussion of independent expenditures beginning on 4 is not historically correct. Independent expenditures were included in the 1974-1975 amendment enacted before Buckley and McCarthy challenged the law.

Proponents of the restrictions proclaimed that the amendment's restrictions were the necessary and sufficient response to "Watergate." They also announced that the spending limits, which applied to all federal candidates, were the centerpiece, of the amendment. In-Kind contributions would count against a candidate's spending by requiring the recipient committee to record and report the value of the in-kind contribution as a contribution and simultaneously record it as an expenditure. Someone in congress saw the potential for mischief. A candidate could have his spending ability reduced without his knowledge by an expenditure that he would have rejected. Even worse, he might have to divert some of his planned spending to counter any negative innuendo in the In-Kind "contribution." The amendment was revised to limit the dual reporting requirement and the "in-kind contribution" designation to expenditures that the candidate had requested or had approved. Expenditures made without the candidate's knowledge or participation were labeled "independent expenditures" and excluded from the dual reporting requirement. When the Supreme Court struck down spending limits the dual reporting/independent expenditure protocol lost its meaning and relevance. It should have been removed from federal law and FEC regulations. Indications of the problems created by the failure to remove them first appeared in two Supreme Court cases, Colorado I and Colorado II that established a party committee's right to make both independent expenditures and coordinated expenditures. The current regulatory problems are a logical progression from there. The provision in P.A. 13-180 explicitly excluding independent expenditures has increased the problem exponentially.

#### Conclusions:

- All 527 organizations are political committees.
- The income of a political committee must be from direct contributions to avoid a substantial tax.
- The Court has ruled that contributions may be limited.
- Section 527 does not distinguish among the means (monetary contributions, in-kind contributions independent expenditures) used to influence elections.
- CGS 9-602 provides that no contributions may be made, solicited or received unless the committee has registered in Connecticut.
- Although independent expenditures may be made without registering in Connecticut, only contributions solicited and received after registration may be used for those expenditures.

I believe that all political committees that wish to influence Connecticut elections by any means must register and report its income and disbursements in accordance with Chapter 155