

H.R. 2264: The Omnibus Budget Reconciliation Act of 1993

SEC. 13222. DENIAL OF DEDUCTION FOR LOBBYING EXPENSES.

(a) DISALLOWANCE OF DEDUCTION- Section 162(e) (relating to appearances, etc., with respect to legislation) is amended to read as follows:

`(e) DENIAL OF DEDUCTION FOR CERTAIN LOBBYING AND POLITICAL EXPENDITURES-

`(1) IN GENERAL- No deduction shall be allowed under subsection (a) for any amount paid or incurred in connection with--

`(A) influencing legislation,

`(B) participation in, or intervention in, any political campaign on behalf of (or in opposition to) any candidate for public office,

`(C) any attempt to influence the general public, or segments thereof, with respect to elections, legislative matters, or referendums, or

`(D) any direct communication with a covered executive branch official in an attempt to influence the official actions or positions of such official.

`(2) EXCEPTION FOR LOCAL LEGISLATION- In the case of any legislation of any local council or similar governing body--

`(A) paragraph (1)(A) shall not apply, and

`(B) the deduction allowed by subsection (a) shall include all ordinary and necessary expenses (including, but not limited to, traveling expenses described in subsection (a)(2) and the cost of preparing testimony) paid or incurred during the taxable year in carrying on any trade or business--

`(i) in direct connection with appearances before, submission of statements to, or sending communications to the committees, or individual members, of such council or body with respect to legislation or proposed legislation of direct interest to the taxpayer, or

`(ii) in direct connection with communication of information between the taxpayer and an organization of which the taxpayer is a member with respect to any such legislation or proposed legislation which is of direct interest to the taxpayer and to such organization,

and that portion of the dues so paid or incurred with respect to any organization of which the taxpayer is a member which is attributable to the expenses of the activities described in clauses (i) and (ii) carried on by such organization.

`(3) APPLICATION TO DUES OF TAX-EXEMPT ORGANIZATIONS- No deduction shall be allowed under subsection (a) for the portion of dues or other similar amounts paid by the taxpayer to an organization which is exempt from tax under this subtitle which the organization notifies the taxpayer under section 6033(e)(1)(A)(ii) is allocable to expenditures to which paragraph (1) applies.

`(4) INFLUENCING LEGISLATION- For purposes of this subsection--

`(A) IN GENERAL- The term `influencing legislation' means any attempt to influence any legislation through communication with any member or

employee of a legislative body, or with any government official or employee who may participate in the formulation of legislation.

`(B) LEGISLATION- The term `legislation' has the meaning given such term by section 4911(e)(2).

`(5) OTHER SPECIAL RULES-

`(A) EXCEPTION FOR CERTAIN TAXPAYERS- In the case of any taxpayer engaged in the trade or business of conducting activities described in paragraph (1), paragraph (1) shall not apply to expenditures of the taxpayer in conducting such activities directly on behalf of another person (but shall apply to payments by such other person to the taxpayer for conducting such activities).

`(B) DE MINIMIS EXCEPTION-

`(i) IN GENERAL- Paragraph (1) shall not apply to any in-house expenditures for any 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 paragraphs (1)(A) and (D).

`(ii) IN-HOUSE EXPENDITURES- For purposes of clause (i), the term `in-house expenditures' means expenditures described in paragraphs (1)(A) and (D) other than--

`(I) payments by the taxpayer to a person engaged in the trade or business of conducting activities described in paragraph (1) for the conduct of such activities on behalf of the taxpayer, or

`(II) dues or other similar amounts paid or incurred by the taxpayer which are allocable to activities described in paragraph (1).

`(C) EXPENSES INCURRED IN CONNECTION WITH LOBBYING AND POLITICAL ACTIVITIES- Any amount paid or incurred for research for, or preparation, planning, or coordination of, any activity described in paragraph (1) shall be treated as paid or incurred in connection with such activity.

`(6) COVERED EXECUTIVE BRANCH OFFICIAL- For purposes of this subsection, the term `covered executive branch official' means--

`(A) the President,

`(B) the Vice President,

`(C) any officer or employee of the White House Office of the Executive Office of the President, and the 2 most senior level officers of each of the other agencies in such Executive Office, and

`(D)(i) any individual serving in a position in level I of the Executive Schedule under section 5312 of title 5, United States Code, (ii) any other individual designated by the President as having Cabinet level status, and (iii) any immediate deputy of an individual described in clause (i) or (ii).

`(7) SPECIAL RULE FOR INDIAN TRIBAL GOVERNMENTS- For purposes of this subsection, an Indian tribal government shall be treated in the same manner as a local council or similar governing body.

`(8) CROSS REFERENCE-

'For reporting requirements and alternative taxes related to this subsection, see section 6033(e).'

(b) DISALLOWANCE OF CHARITABLE DEDUCTION IN CERTAIN CASES-

Section 170(f) (relating to disallowance of deduction in certain cases and special rules), as amended by section 13172, is amended by adding at the end the following new paragraph:

`(9) DENIAL OF DEDUCTION WHERE CONTRIBUTION FOR LOBBYING ACTIVITIES- No deduction shall be allowed under this section for a contribution to an organization which conducts activities to which section 162(e)(1) applies on matters of direct financial interest to the donor's trade or business, if a principal purpose of the contribution was to avoid Federal income tax by securing a deduction for such activities under this section which would be disallowed by reason of section 162(e) if the donor had conducted such activities directly. No deduction shall be allowed under section 162(a) for any amount for which a deduction is disallowed under the preceding sentence.'

(c) REPORTING REQUIREMENTS- Section 6033 (relating to returns by exempt organizations) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

`(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 this subtitle 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).

`(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).'

(d) CONFORMING AMENDMENT- Section 7871(a)(6) is amended by striking subparagraph (B) and by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(e) EFFECTIVE DATE- The amendments made by this section shall apply to amounts paid or incurred after December 31, 1993.