



OFFICE OF  
CHIEF COUNSEL

DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

October 18, 2002

VIA E-MAIL & REGULAR MAIL

John C. Vergelli  
Acting Assistant General Counsel  
Federal Election Commission  
999 E Street, NW  
Washington, DC 20463

Dear Mr. Vergelli:

Thank you for sending us a copy of Notice 2002-16 containing proposed rules relating to coordinated and independent expenditures under the Federal Election Campaign Act of 1971, as amended (the "FECA"). The proposed rules implement portions of the Bipartisan Campaign Reform Act of 2002. Please be advised that we find no direct conflict with the Internal Revenue Code or the regulations thereunder. However, pursuant to 2 U.S.C. § 438(f), the Federal Election Commission (the "Commission") and the Internal Revenue Service ("IRS") are to "work together to promulgate rules, regulations, and forms which are mutually consistent." Accordingly, we respectfully offer the following observations with respect to the concomitant statutory requirements under the Internal Revenue Code that require entities that are treated for Federal tax purposes as political organizations to report certain contributions received and expenditures made to the IRS. It may be helpful to advise organizations that are subject to the Commission's proposed rules of these reporting requirements that apply for Federal tax purposes.

We note that some entities that are political organizations within the meaning of section 527 of the Internal Revenue Code (the "Code") may not be obliged to report contributions or expenditures to the Commission. Nonetheless, these organizations may still be required to report to the Internal Revenue Service. Section 527(j) of the Code requires the reporting on IRS Form 8872 of certain contributions received and expenditures made by a tax-exempt political organization unless (i) the organization reports under the FECA as a political committee; (ii) the organization is a State or local committee of a political party or political

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committee of a State or local candidate; (iii) the organization reasonably anticipates that it will not have gross receipts of \$25,000 or more for any taxable year; (iv) the organization is otherwise exempt from Federal income taxation under section 501(a) of the Code because it is described in section 501(c) of the Code; or (v) the expenditure made is treated an independent expenditure under the FECA. In certain situations this could require a tax-exempt political organization making such expenditures to report coordinated expenditures on IRS Form 8872 even though that organization would not be required to report such items to the Commission. Moreover, a tax-exempt political organization that is required to report one or more independent expenditures to the Commission might also have to report certain contributions received and other expenditures to the IRS.

We hope our comments set forth in this letter aid you in providing this important guidance. If you would like to discuss any of the issues involved, please feel free to call David L. Marshall or me at (202) 622-6070.

Sincerely,



Michael B. Blumenfeld  
Senior Counsel  
Exempt Organizations Branch 1  
Office of the Division Counsel/Associate Chief  
Counsel (Tax Exempt & Government Entities)