

CRS Report for Congress

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Timing of Election Activity Reporting Requirements: Chart Comparing Reporting under the IRC and FECA

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Summary

This report consists of a chart comparing the timing of election activity reporting requirements imposed on section 527 political organizations by the Internal Revenue Code and those imposed on political committees by the Federal Election Campaign Act. The reporting requirements are similar, although the agency to whom the organization reports may be different.

The definition of political committee in the Federal Election Campaign Act (FECA)¹ and the definition of political organization in section 527 of the Internal Revenue Code are remarkably similar, but they do not perfectly coincide. While all political committees are section 527 political organizations, some political organizations do not fit the definition of political committee. For example, organizations that are involved solely in state or local election activity are section 527 political organizations but are not political committees under FECA.

All section 527 political organizations, including political committees, must report certain tax-related information to the Internal Revenue Service (IRS). Other information, such as disclosure of expenditures and contributions, is reported to either the IRS or the Federal Election Commission (FEC) depending on whether the political organization is also a political committee. Those that are political committees report to the FEC, while political organizations that are not political committees report to the IRS.

The following chart compares the timing of the election activity reporting requirements imposed by the Federal Election Campaign Act and the Internal Revenue Code. For a chart comparing the contents of the various IRS forms, see CRS Report RL30877. IRS Forms 8871 and 8872 are modeled on FEC Forms 1 and 3.

¹ 2 U.S.C. § 431(4).

Timing of Election Activity Reporting Requirements under the IRC and FECA

	527 Organizations that are not Political Committees	527 Organizations that are Political Committees under FECA
Notice of Formation	Report to IRS within 24 hours of formation. IRS Form 8871¹	Report to FEC within 10 days of appropriate triggering event. ² FEC Form 1
Annual Information Return	IRS Form 990 to IRS ³ Due 15 th day of the <i>fifth</i> month after the close of the taxable year (May 15 for calendar year organizations)	Exempt from requirement.
Annual Tax Return	IRS Form 1120-POL to IRS ⁴ Due 15 th day of the <i>third</i> month after the close of the taxable year (March 15 for calendar year organizations)	
Periodic Disclosure of Contributions and Expenditures during Election Year	<p>IRS Form 8872 to IRS.⁵</p> <p>Organization elects one of two schedules: monthly or non-monthly.</p> <p><i>If monthly:</i> 12 filings. Due by the 20th day after the end of each month, except: for October, a <u>pre-general election report</u> must be filed no later than twelfth day before (or posted by registered or certified mail no later than the fifteenth day before) the election, with information complete as of the twentieth day before the election;⁶ for November, a <u>post-general election report</u> must be filed no later than the thirtieth day after the election, with information complete as of the twentieth day after the election; and the December report is filed by January 31 as part of the year-end report.</p> <p><i>If non-monthly:</i> 6 filings. Due by the 15th day after the last day of quarter, except that the final quarterly report is due January 31 as part of the year-end report. If the organization makes a contribution or</p>	<p>FEC Form 3 to FEC for House candidate committees; to Secretary of the Senate for Senate candidate committees; to the FEC for Presidential candidate committees; to the FEC for non-candidate committees (e.g., parties and political action committees).</p> <p><i>Congressional candidate committees:</i> 6 filings. Quarterly reports due by the 15th day after the end of the calendar quarter, except that the final quarterly report is due January 31.</p> <p>A <u>pre-election report</u> covering a period ending 20 days before the election. The report must be filed “not later than the twelfth day before (or posted by registered or certified mail not later than the fifteenth day before) any election....”</p> <p>A <u>post-general election report</u> is due 30 days after the election and must cover activity through 20 days after the election.</p> <p><i>Presidential candidate committees</i> (with actual or anticipated receipts or expenditures of over \$100,000 during the year): 12 monthly filings due by the 20th day after the end of each month. In lieu of the reports due in November and December, the committee must file a <u>pre-election report</u> covering a period ending 20 days before the election. A <u>post-general election report</u> is due 30 days</p>

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	<p>expenditure in connection with a federal election, it must file a <u>pre-election report</u> covering a period ending 20 days before the election, including the general election and any primaries. The report must be “filed not later than the twelfth day before (or posted by registered or certified mail not later than the fifteenth day before) any election...”⁷ A <u>post-general election report</u> is due 30 days after the election including activity through 20 days after the election.</p>	<p>after the election including activity through 20 days after the election. The final monthly report is consolidated with the year end report and due no later than January 31. If the committee does not anticipate receiving contributions or making expenditures of at least \$100,000, then the committee files four quarterly reports, a pre-election report, and a post-general report.</p> <p><i>Political committees other than authorized candidate committees (e.g. PACs and parties):</i> Committee elects one of two schedules: monthly or non-monthly. Political parties must file according to the monthly schedule. Schedules for filing are identical to those for 8872 filings with IRS.</p>
<p>Periodic Disclosure of Contributions and Expenditures during Non-Election Years</p>	<p>If on a <i>monthly</i> schedule for election years, must continue on monthly schedule with reports due by the 20th day after the end of each month, but December report is due January 31 (part of year-end report).</p> <p>If on a <i>non-monthly</i> schedule for election years, must file 2 reports, each covering half a year.</p>	<p><i>House or Senate candidate committees:</i> Quarterly, due by the 15th day after the close of each calendar quarter, with the fourth quarter due by January 31 of the following year.</p> <p><i>Presidential candidate committees:</i> choice of monthly filings due on the 20th day after the close of each month or quarterly filings due by the 15th day after the close of each calendar quarter.</p> <p><i>Political committees other than authorized candidate committees (e.g. PACs and parties):</i> If on a <i>monthly</i> schedule, reports due by the 20th day after the end of each month and December report due January 31. If on a <i>non-monthly</i> schedule, must file 2 reports, each covering half a year, due July 31 and January 31.</p>
<p>Disbursements for Electioneering Communications aggregating more than \$10,000 during a Calendar Year</p>	<p>FEC Form 9 to FEC Due by 11:59 p.m Eastern Standard/Daylight Time of the day after the date on which the communication is publicly distributed for the first time, provided the \$10,000 threshold is reached. Due by 11:59 p.m. ES/DT of the days following the dates of public distribution of later communications whenever the costs bring subsequent aggregate disbursement totals to more than \$10,000.</p>	

1. IRC § 527 political organizations do not have to file a Form 8871 if they report to the FEC as a political committee, anticipate annual gross receipts of less than \$25,000, or are political committees of a state or local candidate or state or local committees of a political party.

2. The appropriate triggering event depends on the type of political committee. For principal campaign committees, it is the candidate's designation of the committee on the Statement of Candidacy (FEC Form 2); for committees sponsored by corporations, labor organizations or trade associations, it is the committee's establishment; for local party committees, it is meeting one of three contribution or expenditure thresholds; and for other political committees, it is receiving contributions or making expenditures in connection with a federal election aggregating in excess of \$1,000 during a calendar year.

3. IRC § 527 organizations with gross receipts of at least \$25,000 (\$100,000 if a qualified state or local political organization) are required to file annual information returns with the IRS. However, an IRC § 527 organization does not have to file an information return if it is:

- required to report to the FEC as a political committee,
- a state or local committee of a political party,
- a political committee of a state or local candidate,
- a caucus or association of state or local officials,
- an authorized committee of a candidate for federal office under FECA § 301(6),
- a national committee of a political party under FECA § 301(14) , or
- a congressional campaign committee of a political party committee.

4. All IRC § 527 organizations with more than \$100 of taxable income, including those reporting to the FEC, as political committees are required to file annual tax returns with the IRS.

5. IRC § 527 organizations do not have to file Form 8872 with the IRS if they:

- are required to report to the FEC as political committees,
- have annual gross receipts of less than \$25,000,
- are state or local committees of a political party,
- are political committees of state or local candidates, or
- are qualified state or local political organizations that are required to report similar information to a state.

Additionally, the requirement does not apply to independent expenditures (i.e., expenditures that expressly advocate for a candidate but are made without the candidate's cooperation). Organizations, other than political committees, that make independent expenditures aggregating more than \$250 during a year must report them to the FEC, using FEC Form 5 or a signed statement. The expenditures are reported on a quarterly basis, with special rules for pre-general and post-general election reports. Political committees report the expenditures on Form 3 (see chart).

6. This language is taken from FECA and does not appear to take into account the rule in IRC § 7502, that timely mailing (by ordinary mail) is timely filing.

7. See note 6.