

105TH CONGRESS  
1ST SESSION

# S. 65

To amend the Internal Revenue Code of 1986 to ensure that members of tax-exempt organizations are notified of the portion of their dues used for political and lobbying activities, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JANUARY 21, 1997

Mr. HATCH introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 to ensure that members of tax-exempt organizations are notified of the portion of their dues used for political and lobbying activities, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. INCREASED DISCLOSURE OF DUES OF TAX-EX-**  
4 **EMPT ORGANIZATIONS USED FOR POLITICAL**  
5 **PURPOSES.**

6 (a) REPLACEMENT OF EXCEPTION WHERE DUES  
7 ARE GENERALLY NONDEDUCTIBLE.—Section 6033(e)(3)

1 of the Internal Revenue Code of 1986 (relating to excep-  
 2 tion where dues are generally nondeductible) is amended  
 3 to read as follows:

4 “(3) EXCEPTION WHERE ANNUAL DUES ARE  
 5 SMALL OR FROM OTHER EXEMPT ORGANIZATIONS.—

6 “(A) IN GENERAL.—Paragraph (1)(A)  
 7 shall not apply to an organization which estab-  
 8 lishes to the satisfaction of the Secretary that  
 9 at least 90 percent of all annual dues or other  
 10 similar amounts are received from—

11 “(i) persons who each pay annual  
 12 dues or other similar amounts which are  
 13 \$100 or less, or

14 “(ii) the following:

15 “(I) organizations exempt from  
 16 taxation under subtitle A other than  
 17 organizations described in paragraph  
 18 (1)(B)(i);

19 “(II) State and local govern-  
 20 ments; and

21 “(III) entities the income from  
 22 which is exempt from taxation under  
 23 section 115.

24 Clause (i) shall not apply to an organization de-  
 25 scribed in section 501(c)(6).

1           “(B) COST-OF-LIVING ADJUSTMENT.—In  
 2           the case of taxable years beginning in a cal-  
 3           endar year after 1997, the \$100 amount under  
 4           subparagraph (A)(i) shall be increased by an  
 5           amount equal to the product of \$100 and the  
 6           cost-of-living adjustment for such calendar year  
 7           under section 1(f)(3), except that subparagraph  
 8           (B) thereof shall be applied by substituting  
 9           ‘1996’ for ‘1992’. If the amount of any such in-  
 10          crease is not a multiple of \$1, such amount  
 11          shall be increased to the next highest \$1.”.

12          (b) PROXY TAX MAY NOT BE USED TO AVOID DIS-  
 13          CLOSURE TO MEMBERS.—

14           (1) IN GENERAL.—Section 6033(e)(2)(A) of the  
 15          Internal Revenue Code of 1986 (relating to tax im-  
 16          posed where organization does not notify) is amend-  
 17          ed to read as follows:

18           “(A) IMPOSITION OF TAX.—

19           “(i) IN GENERAL.—If an organization  
 20          fails to include in the notices described in  
 21          paragraph (1)(A) for any taxable year the  
 22          amount allocable to expenditures to which  
 23          section 162(e)(1) applies (determined on  
 24          the basis of actual amounts rather than  
 25          the reasonable estimates under paragraph

1 (1)(A)(ii)), then there is hereby imposed  
2 on such organization for such taxable year  
3 a tax in an amount determined under  
4 clause (iii).

5 “(ii) ELECTION TO PAY SURROGATE  
6 TAX.—

7 “(I) IN GENERAL.—An organiza-  
8 tion providing the notices described in  
9 paragraph (1)(A) for any taxable year  
10 may elect to pay a tax for such tax-  
11 able year in the amount determined  
12 under clause (iii).

13 “(II) EFFECT OF ELECTION ON  
14 DEDUCTIBILITY.—If an organization  
15 pays a tax under subclause (I) for any  
16 taxable year, paragraph (3) of section  
17 162(e) shall not apply to the portion  
18 of the dues or other similar amounts  
19 paid by a taxpayer to such organiza-  
20 tion which are allocable to the expend-  
21 itures with respect to which such or-  
22 ganization paid the tax under sub-  
23 clause (I).

1 “(III) INCORRECT NOTICES.—In  
 2 the case of an election under sub-  
 3 clause (I), an additional tax shall be  
 4 imposed under clause (i) if the esti-  
 5 mates in the notices are less than the  
 6 actual amounts.

7 “(iii) AMOUNT OF TAX.—For pur-  
 8 poses of this subparagraph, the amount of  
 9 tax determined under this clause is an  
 10 amount equal to the product of the highest  
 11 rate of tax imposed by section 11 for the  
 12 taxable year and—

13 “(I) in the case of a failure to  
 14 which clause (i) applies, the aggregate  
 15 amount not included in the notices de-  
 16 scribed in paragraph (1)(A) by reason  
 17 of such failure, or

18 “(II) in the case of an election  
 19 under clause (ii), the aggregate  
 20 amount included in the notices with  
 21 respect to which the election was  
 22 made.”.

23 (2) NOTICE REQUIREMENT.—Section  
 24 6033(e)(1)(A)(ii) of such Code (relating to reporting  
 25 requirements) is amended to read as follows:

“(ii) except as provided in paragraph (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—

“(I) a reasonable estimate of the portion of such dues or other similar amounts to which such expenditures are so allocable, and

“(II) whether or not a deduction is allowable to such person with respect to such portion.”.

(3) PENALTIES FOR FAILURE TO PROVIDE NOTICE.—

(A) NOTICE ACCOMPANYING DUES.—Section 6710 of such Code (relating to failure to disclose that contributions are nondeductible) is amended—

(i) in subsection (a), by inserting “or a failure to meet the requirement of section 6033(e)(1)(A)(ii) by an organization to which section 6033(e) applies” after “section 6113 applies”; and

1 (ii) in subsection (c), by inserting “or  
 2 section 6033(e)(1)(A)(ii)” after “section  
 3 6013”.

4 (B) ANNUAL NOTICE.—Section 6724(d)(2)  
 5 of such Code (relating to payee statements), as  
 6 amended by the Small Business Job Protection  
 7 Act of 1996 and the Health Insurance Port-  
 8 ability and Accountability Act of 1996, is  
 9 amended by striking “or” at the end of the next  
 10 to last subparagraph, by striking the period at  
 11 the end of the last subparagraph and inserting  
 12 “, or”, and by adding at the end the following  
 13 new subparagraph:

14 “(Z) the last sentence of section  
 15 6033(e)(1)(A).”.

16 (4) CONFORMING AMENDMENTS.—

17 (A) Section 6033(e)(2)(B) of such Code is  
 18 amended by striking “subparagraph (A)(ii)”  
 19 and inserting “subparagraph (A)(i)(I)”.

20 (B)(i) The heading for section 6710 of  
 21 such Code is amended by inserting “**OR THAT**  
 22 **DUES ARE FOR LOBBYING ACTIVITIES**”  
 23 after “**NONDEDUCTIBLE**”.

24 (ii) The item relating to section 6710 in  
 25 the table of sections for part I of subchapter B

1 of chapter 68 of such Code is amended by in-  
 2 serting “or that dues are for lobbying activi-  
 3 ties” after “nondeductible”.

4 (c) ORGANIZATIONS TO WHICH DISCLOSURE RULES  
 5 APPLY.—Section 6033(e)(1)(B)(i) of the Internal Reve-  
 6 nue Code of 1986 (relating to organizations to which sub-  
 7 section applies) is amended to read as follows:

8 “(i) IN GENERAL.—This subsection  
 9 shall apply to any organization which is de-  
 10 scribed in paragraph (4), (5), or (6) of sec-  
 11 tion 501(c) (other than a veterans’ organi-  
 12 zation) and which is exempt from taxation  
 13 under section 501(a).”.

14 (d) EFFECTIVE DATE.—The amendments made by  
 15 this section shall apply to amounts paid or incurred after  
 16 December 31, 1996.

17 **SEC. 2. 2-PERCENT FLOOR ON ITEMIZED DEDUCTIONS NOT**  
 18 **TO APPLY TO DEDUCTION FOR DUES.**

19 (a) IN GENERAL.—Section 67(b) of the Internal Rev-  
 20 enue Code of 1986 (defining miscellaneous itemized de-  
 21 ductions) is amended by striking “and” at the end of para-  
 22 graph (11), by striking the period at the end of paragraph  
 23 (12) and inserting “, and”, and by adding at the end the  
 24 following new paragraph:



1           “(13) the deduction allowed under section 162  
2           for dues or other similar amounts paid by an indi-  
3           vidual to an organization described in paragraph (4),  
4           (5), or (6) of section 501(c) (other than a veterans’  
5           organization) and exempt from taxation under sec-  
6           tion 501(a).”.

7           (b) EFFECTIVE DATE.—The amendments made by  
8           this section shall apply to taxable years beginning after  
9           December 31, 1996.

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