

§ 56.4911-10

26 CFR Ch. I (4-1-01 Edition)

and O, on its return for its taxable year ending June 30, 1980. N is not an electing member (as defined in § 56.4911-7(e)(4)). Accordingly, under paragraph (d)(3)(i) of this section, it reports the name and identification number of each member of the group.

(3) The following tables summarize the expenditures by the affiliated group for the calendar years indicated. None of the group's lobbying expenditures for its taxable years 1979 through 1982 were grass roots expenditures.

TABLE I—GROUP'S EXPENDITURES

Year	Exempt purpose expenditures (EPE)	Calculation	Lobbying nontaxable amount (LNTA)	Lobbying expenditures (LE)
1979	\$400,000	(20%×\$400,000=)	\$80,000	\$100,000
1980	300,000	(20%×\$300,000=)	60,000	100,000
1981	600,000	(20%×\$500,000+ 15%×\$100,000=)	115,000	120,000
1982	500,000	(20%×\$500,000=)	100,000	220,000
Total	1,800,000		355,000	540,000

TABLE II—EXPENDITURES OF M AND O

	Exempt purpose expenditures		Lobbying nontaxable amount		Lobbying expenditures		M plus O
	M	O	M	O	M	O	
1979	125,000	100,000	25,000	20,000	60,000	20,000	80,000
1980	100,000	50,000	20,000	10,000	40,000	40,000	80,000
1981	250,000	100,000	50,000	20,000	60,000	40,000	100,000
1982	200,000	100,000	40,000	20,000	160,000	40,000	200,000

(4) For the affiliated group's taxable years 1979, 1980, 1981, and 1982, the group has excess lobbying expenditures. Under section 4911(f)(1)(B) and § 56.4911-8(d), M and O, as electing member organizations, are liable for a portion of the 25 percent excise tax imposed on the group's excess lobbying expenditures, based on their respective shares of the lobbying expenditures of all electing member organizations. For 1979, the excess lobbying expenditures are \$20,000 (\$100,000 - \$80,000). The tax is 25% of \$20,000 or \$5,000; M must pay \$3,750 ((60,000/\$80,000) × \$5,000 = \$3,750), and O must pay \$1,250 ((\$20,000/\$80,000) × \$5,000 = \$1,250). For 1980, the tax is \$10,000 and each must pay \$5,000. For 1981, the tax is \$1,250, of which M must pay \$750 and O must pay \$500. For 1982, the tax is \$30,000. M must pay \$24,000 and O must pay \$6,000. M and O are not liable for any separate 4911 excise tax that otherwise would have been imposed on their separate excess lobbying expenditures.

(5) Under § 56.4911-9(b), the group must make the calculation described in § 1.501(h)-3(b)(1) for each of the group's taxable years 1979 through 1982. The following illustrates only the required calculation for the group's taxable year 1982. For its taxable year 1982, the group must determine whether it normally has made lobbying expenditures in excess of its lobbying ceiling amount. The determination takes into account the group's expenditures in base years 1979 through 1982.

The sum of the group's lobbying expenditures for the base years (\$540,000) exceeds 150% of the sum of the group's lobbying nontaxable amounts for the base years (150% × \$355,000 = \$532,500). Therefore, for its taxable year 1982, the group normally has made lobbying expenditures in excess of its lobbying ceiling amount. Under section 501(h) and § 56.4911-9(b), M is not exempt from tax under section 501(a) as an organization described in section 501(c)(3) for its taxable year beginning December 1, 1983, and O is not exempt for its year beginning July 1, 1983. Whether N's lobbying expenditures disqualify it for tax exemption at any time after January 1, 1979, is determined under the substantial part test of section 501(c)(3).

(f) *Cross reference.* For other provisions relating to members of an affiliated group or organizations, see §§ 56.4911-2(c)(4)(ii), 56.4911-4(c)(2), 56.4911-4(e), and 56.4911-5(f)(3).

§ 56.4911-10 Members of a limited affiliated group of organizations.

(a) *Scope.* This section provides additional rules for members of a limited affiliated group of organizations, as defined in paragraph (b) of this section (relating generally to organizations that are affiliated solely by reason of

provisions of their governing instruments that extend control solely with respect to national legislation). Except as otherwise provided in this section, §§ 56.4911-8 and 56.4911-9 do not apply to members of a limited affiliated group. Thus, as modified by this section, the regulations under sections 501(h) and 4911 apply to electing members of a limited affiliated group individually. For example, §§ 56.4911-2 through 56.4911-4, which, by their terms, include amounts described in paragraph (d) of this section, are used in applying sections 501(h) and 4911 to controlling member organizations (within the meaning of paragraph (c) of this section). Except as otherwise provided in this section, members of a limited affiliated group that are not electing organizations are subject to the substantial part test.

(b) *Members of limited affiliated group.* For purposes of section 4911, a limited affiliated group consists of two or more organizations that meet the following requirements:

(1) Each organization is a member of an affiliated group of organizations as defined in § 56.4911-7(e);

(2) No two members of the affiliated group described in paragraph (b)(1) of this section are affiliated by reason of interlocking governing boards under § 56.4911-7(b); and

(3) No member of the affiliated group described in paragraph (b)(1) of this section is, under its governing instrument, bound by decisions of one or more of the other such members on legislative issues other than national legislative issues.

Each organization in a group of organizations that satisfies the requirements of the preceding sentence is a member of the limited affiliated group.

(c) *Controlling and controlled organizations.* For purposes of this section, a member of a limited affiliated group is a controlling member organization if it controls one or more of the other members of the limited affiliated group, and a member of a limited affiliated group is a controlled member organization if it is controlled by one or more of the other members of the limited affiliated group. For purposes of the preceding sentence, whether an organization controls a second organization shall be de-

termined by whether the second organization is bound, under its governing instruments, by actions taken by the first organization on national legislative issues.

(d) *Expenditures of controlling organization—(1) Scope.* This paragraph (d) applies to a controlling member organization that has the expenditure test election in effect for its taxable year. This paragraph (d) applies whether or not the organization is also a controlled member organization. In determining a controlling member organization's expenditures, no expenditure shall be counted twice.

(2) *Expenditures for direct lobbying.* A controlling member organization for which the expenditure test election is in effect shall include in its direct lobbying expenditures for its taxable year the direct lobbying expenditures (as defined in §§ 56.4911-2 and 56.4911-3) paid or incurred with respect to national legislative issues during such year by each organization that is a member of the limited affiliated group and is controlled (within the meaning of paragraph (c) of this section) by such controlling member organization.

(3) *Grass roots expenditures.* A controlling member organization for which the expenditure test election is in effect shall include in its grass roots expenditures for its taxable year the grass roots expenditures (as defined in §§ 56.4911-2 and 56.4911-3) paid or incurred with respect to national legislative issues during such year by each organization that is a member of the limited affiliated group and is controlled (within the meaning of paragraph (c) of this section) by such controlling member organization.

(4) *Exempt purpose expenditures.* The exempt purpose expenditures of a controlling member organization do not include the exempt purpose expenditures (other than lobbying expenditures described in paragraphs (d)(2) and (d)(3) of this section) of any organization that is a controlled member organization with respect to it.

(e) *Expenditures of controlled member.* A controlled member organization that is an electing organization but that does not control (within the meaning of paragraph (c) of this section) any organization in the limited affiliated

group shall apply sections 501(h) and 4911 and the regulations thereunder without regard to the expenditures of any other member of the limited affiliated group.

(f) *Reports of members of limited affiliated groups*—(1) *Controlling member organization's additional information on annual return.* In addition to the information required by § 1.6033-2(a)(2)(i)(k), each controlling member organization for which the expenditure test election is in effect must provide on its annual return the name and identification number of each member of the limited affiliated group.

(2) *Reports of controlling members to other members.* Each controlling member organization for which an expenditure test election is in effect must notify each member that it controls of its taxable year in order for the controlled organization to prepare the report required by paragraph (f)(3) of this section. Such notification must be made before the beginning of the second month after the close of each taxable year of the controlling member for which the election is in effect.

(3) *Reports of controlled member organization.* Every controlled member organization (whether or not the expenditure test election is in effect with respect to it) shall provide to each member of the limited affiliated group that controls it, before the first day of the second month following the close of the taxable year of each such controlling organization, its name, identification number, and the lobbying expenditures and grass roots expenditures on national legislative issues incurred by the controlled member organization.

(g) *National legislative issues.* The term “national legislative issue” means legislation, limited to action by the Congress of the United States or by the public in any national procedure. If an issue is both national and local, it is characterized as a national legislative issue if the contemplated legislation is Congressional legislation.

(h) *Examples.* The provisions of this section are illustrated by the following examples:

Example (1). State X has an income tax law that uses definitions contained in the Internal Revenue Code as it may be amended from time to time. Legislation to change a defini-

tion in the Internal Revenue Code is pending in Congress. This is a national legislative issue even though Congressional action may affect state law.

Example (2). Organization M takes a position favoring approval by Congress of a proposed amendment to the United States Constitution. This is a national legislative issue. After approval by Congress and submission to the states for ratification, the proposed amendment ceases to be a national legislative issue.

Example (3). N, O, and P are organizations described in section 501(c)(3) that do not have interlocking governing boards, within the meaning of § 56.4911-7(b). N has elected the expenditure test under section 501(h). By virtue of the governing instruments of O and P, any decision made by N on national legislative issues (such as issues concerning action on acts, bills, resolutions, or similar items by Congress) binds both O and P. Under their governing instruments, O and P are not bound on any other issues. Therefore, N, O, and P constitute a limited affiliated group. If P sends a series of letters and pamphlets to members of Congress in support of bill V, their cost will be included in N's and P's expenditures for direct lobbying and in N's and P's exempt purposes expenditures, but will not be included in O's lobbying expenditures. If N hires a lobbyist to solicit support for bill V, the cost of hiring the lobbyist will be includable only in N's lobbying expenditures. Any lobbying expenditures incurred by either O or P on any issue that is not a national legislative issue will not be included in N's lobbying expenditures.

Example (4). Y is an electing organization and a member of a limited affiliated group of organizations. Y controls organizations A, B, and C with respect to national legislative issues but is not controlled by any other organization.—Y's taxable year is the calendar year. During 1982, A dissolves on March 15th and D, also controlled by Y with respect to national legislative issues, is established on May 1st. For 1982 the limited affiliated group comprises Y, A, B, C, and D.

Example (5). P, Q, R, and S are electing organizations. The governing instruments of Q require it to adopt the positions on national legislative issues adopted by P. R is similarly bound by Q's positions. R and S have interlocking governing boards, within the meaning of § 56.4911-7(b), but S's governing instruments do not require it to adopt the position of any other organization on any legislative issues. Under § 56.4911-7(e)(1), P, Q, R, and S are members of an affiliated group. Applying paragraph (b) of this section, it is determined that (1) P, Q, R and S are members of an affiliated group; and (2) R and S are affiliated by reason of interlocking governing boards. Accordingly, P, Q, R and S are not a limited affiliated group. Similarly, P,

Q, and R do not constitute a limited affiliated group because they are members of an affiliated group comprising P, Q, R, and S, two of whose members, R and S, are affiliated by reason of interlocking governing boards.

Example (6). T, U, V, and W are electing organizations. The governing instruments of U and V require them to adopt the positions on national legislative issues adopted by T, but do not require them to adopt the positions of any organization on any other legislative issues. The governing documents of W require it to adopt the positions of V on all legislative issues. Applying paragraph (b) of this section, it is determined that (1) T, U, V, and W are all members of an affiliated group; (2) no two of T, U, V, and W are affiliated by reason of interlocking governing boards; but (3) W is bound, under its governing instrument, by decisions of V on legislative issues that are not national legislative issues. Accordingly, T, U, V, and W do not constitute a limited affiliated group. Similarly, T, U, and V do not constitute a limited affiliated group. T, U, V, and W are an affiliated group under § 56.4911-7.

§ 56.6001-1 Notice or regulations requiring records, statements, and special returns.

(a) *In general.* The provisions of § 53.6001-1 shall apply to any person subject to tax under chapter 41, subtitle D, of the Code, by treating each reference to chapter 42 in § 53.6001-1 as a reference to chapter 41.

(b) *Cross references.* See § 56.4911-6 for general information on records of lobbying expenditures. See §§ 56.4911-9(d) and 56.4911-10(f) for information that members of an affiliated group and a limited affiliated group, respectively, are to provide to other members of the group and to the Internal Revenue Service.

§ 56.6011-1 General requirement of return, statement, or list.

Every organization liable for the tax imposed by section 4911(a) shall file an annual return with respect to the tax on the form prescribed by the Internal Revenue Service for that purpose and shall include the information required by the form and its instructions.

PART 141—TEMPORARY EXCISE TAX REGULATIONS UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

§ 141.4975-13 Definition of “amount involved” and “correction”.

Until superseded by permanent regulations under sections 4975(f) (4) and (5), § 53.4941(e)-1 of this chapter (Foundation Excise Tax Regulations) will be controlling to the extent such regulations describe terms appearing both in section 4941(e) and section 4975(f). Because of the need for immediate guidance with respect to the provisions contained in this Treasury decision, it is found impracticable to issue it with notice and public procedure thereon under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

(Sec. 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805))

[T.D. 7425, 41 FR 32890, Aug. 6, 1976, as amended by T.D. 8084, 51 FR 16305, May 2, 1986]

PART 143—TEMPORARY EXCISE TAX REGULATIONS UNDER THE TAX REFORM ACT OF 1969

Sec.

143.1 [Reserved]

143.2 Taxes on self-dealing; scholarship and fellowship grants by private foundations.

143.3-143.4 [Reserved]

143.5 Taxes on self-dealing; indirect transactions by a private foundation.

143.6 Election to shorten the period during which certain excess business holdings of private foundations are treated as permitted holdings.

AUTHORITY: Sec. 7805, 68A Stat. 917; 26 U.S.C. 7805.

§ 143.1 [Reserved]

§ 143.2 Taxes on self-dealing; scholarship and fellowship grants by private foundations.

(a) *In general.* Section 4941(d)(1)(D) of the Internal Revenue Code of 1954 as added by section 101(b) of the Tax Reform Act of 1969 (83 Stat. 500) provides