DESCRIPTION OF H.R. 9721, THE "FISCAL SPONSORSHIP TRANSPARENCY ACT OF 2026"

Scheduled for Markup
by the
HOUSE COMMITTEE ON WAYS AND MEANS
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Prepared by the Staff
of the
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INTRODUCTION

The House Committee on Ways and Means has scheduled a committee markup for July 22, 2026, of H.R. 9721, the "Fiscal Sponsorship Transparency Act of 2026." This document,[1] prepared by the staff of the Joint Committee on Taxation, provides a description of the mark.

[1] This document may be cited as follows: Joint Committee on Taxation, *Description of H.R. 9721, the "Fiscal Sponsorship Transparency Act of 2026"* (JCX-37-26), July 20, 2026. This document can also be found on the Joint Committee on Taxation website at www.jct.gov. All section references in the document are to the Internal Revenue Code of 1986, as amended (the "Code"), unless otherwise stated.

A. Treatment of Fiscal Sponsorship Arrangements

Present Law

Tax exemption

Organizations described in section 501(c)(3), also referred to as charitable organizations, generally are exempt from Federal income tax, are eligible to receive tax deductible contributions,[2] have access to tax-exempt financing through State and local governments,[3] and generally are exempt from State and local taxes. A charitable organization must operate primarily in pursuit of one or more tax-exempt purposes constituting the basis of its tax exemption.[4] The Code specifies such purposes as religious, charitable, scientific, educational, literary, testing for public safety, to foster international amateur sports competition, or for the prevention of cruelty to children or animals. In general, an organization is organized and operated for charitable purposes if it provides relief for the poor and distressed or the underprivileged.[5]

In order to qualify as operating primarily for a purpose described in section 501(c)(3), an organization must satisfy the following operational requirements: (1) its net earnings may not inure to the benefit of any person in a position to influence the activities of the organization; (2) it must operate to provide a public benefit, not a private benefit;[6] (3) it may not be operated primarily to conduct an unrelated trade or business;[7] (4) it may not engage in substantial legislative lobbying; and (5) it may not participate or intervene in any political campaign.

Charitable contributions

In general, a deduction is permitted for charitable contributions, subject to certain limitations that depend on the type of taxpayer, the property contributed, and the donee organization. The amount of deduction generally equals the fair market value of the contributed property on the date of the contribution. Charitable deductions are provided for income, estate, and gift tax purposes.[8]

A charitable contribution made to an otherwise qualifying tax-exempt organization may not be deductible if the donee organization is determined to be acting merely as a conduit for a

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[2] Sec. 170.

[3] Sec. 145.

[4] Treas. Reg. sec. 1.501(c)(3)-1(c)(1).

[5] Treas. Reg. sec. 1.501(c)(3)-1(d)(2).

[6] Treas. Reg. sec. 1.501(c)(3)-1(d)(1)(ii).

[7] Treas. Reg. sec. 1.501(c)(3)-1(e)(1). Conducting a certain level of unrelated trade or business activity will not jeopardize tax-exempt status.

[8] Secs. 170, 2055, and 2522, respectively.

third party that is not tax-exempt.[9] In such case, the charitable contribution may be treated as having been made directly to the ultimate recipient, and the deductibility of the contribution depends on whether the ultimate recipient is a qualifying organization. Whether a donee organization is acting merely as a conduit for a contribution to a third party depends on whether the organization retains "control and discretion" over donated funds to ensure that the funds are used in furtherance of its exempt purposes.[10] If an examination of the facts and circumstances shows that the donee organization has "full control of the donated funds, and discretion as to their use," then a charitable deduction may be allowed even if the organization subsequently distributes the funds to a third party.[11]

Fiscal sponsorship arrangements

A charitable organization may agree to act as a fiscal sponsor for a person or group with a new undertaking (a "project"), which in many cases lacks its own tax-exempt status. Under a fiscal sponsorship arrangement, a fiscal sponsor may agree to receive funds on behalf of the project, which may include tax-deductible donations. The fiscal sponsor may also offer the project administrative, financial, or other forms of support.[12] The term "fiscal sponsorship arrangement" is not defined in the Code or in regulations. In April 2026, the Department of the Treasury (the "Treasury") announced plans to issue proposed rules and revise the Form 990 to provide clearer reporting on certain activities of tax-exempt organizations, including fiscal sponsorship arrangements. Treasury describes fiscal sponsorship as "longstanding and lawful structures through which a tax-exempt organization may support charitable projects and initiatives."[13]

Disregarded entities

A tax-exempt organization may choose to set up a single-owner entity, such as a single-member limited liability company, for which the tax-exempt organization is the sole owner. Under the so-called "check the box" regulations, an eligible entity with a single owner is

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[9] Rev. Rul. 63-252, 1963-2 C.B. 101 ("[A]n inquiry as to the deductibility of a contribution need not stop once it is determined that an amount has been paid to a qualifying organization; if the amount is earmarked, then it is appropriate to look beyond the fact that the immediate recipient is a qualifying organization to determine whether the payment constitutes a deductible contribution."); *S.E. Thomason v. Commissioner*, 2 T.C. 441 (1943) (determining that amounts paid to provide special advantages for a particular child were not deductible when earmarked for the benefit of that child).

[10] Rev. Rul. 68-489, 1968-2 C.B. 210.

[11] Rev. Rul. 62-113, 1962-2 C.B. 10.

[12] See Gregory L. Colvin and Stephanie L. Petit, *Fiscal Sponsorship: 6 Ways to Do It Right*, Study Center Press (3rd ed., 2019) (describing six models of fiscal sponsorship for tax-exempt sponsors).

[13] Department of the Treasury, *Treasury Announces Form 990 Transparency Initiative to Expose Hidden Funding and Strengthen Oversight*, April 23, 2026, available at https://home.treasury.gov/news/press-releases/sb0470 (last visited July 14, 2026).

generally disregarded as an entity separate from its owner for Federal income tax purposes (a "disregarded entity"),[14] even though the entity is treated as a separate legal entity for other purposes. The Internal Revenue Service (the "IRS") has determined that a disregarded entity, whose single member is exempt under section 501(c)(3), is treated as a branch or division of its tax-exempt member and is not required to apply for separate recognition of tax exemption.[15]

<u>Form 990 reporting by tax-exempt organizations, in general</u>

A tax-exempt organization generally is required to file an annual information return with the IRS. An organization that has not received a determination of its tax-exempt status, but that claims tax-exempt status under section 501(a), is subject to the same annual reporting requirements and exceptions as organizations that have received a formal determination.

In general, organizations described in section 501(c) and exempt from taxation under section 501(a) are required to file an annual return (Form 990 series), stating specifically the items of gross income, receipts, disbursements, and such other information as the Secretary of the Treasury (the "Secretary") may prescribe.[16] An organization that is required to file an information return, but that has gross receipts of less than $200,000 during its taxable year, and total assets of less than $500,000 at the end of its taxable year, may file Form 990-EZ. Section 501(c)(3) private foundations are required to file Form 990-PF rather than Form 990. Any organization that is subject to UBIT and that has $1,000 or more of gross unrelated business taxable income must also file Form 990-T (Exempt Organization Business Income Tax Return).[17]

On the applicable annual information return, organizations are required to report their gross income, information on their finances, functional expenses, compensation, activities, and other information required by the IRS to permit a review of the organization's activities and operations during the previous taxable year and to allow for review of whether the organization continues to meet the statutory requirements for exemption.

The requirement that an exempt organization file an annual information return (Form 990 or Form 990-EZ) does not apply to certain tax-exempt organizations, including organizations (other than private foundations) the gross receipts of which in each taxable year normally are not more than $50,000. Organizations that are excused from filing an information return by reason of normally having gross receipts below such amount must furnish to the Secretary an annual

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[14] Treas. Reg. sec. 301.7701-3(b).

[15] Priv. Ltr. Rul. 200134025, May 22, 2001 ("Where the sole member is a tax-exempt organization described in section 501(c)(3), the limited liability company is treated as an activity of the tax-exempt organization.").

[16] Sec. 6033(a).

[17] Tax-exempt organizations also generally must file reports and returns applicable to taxable entities with respect to Social Security taxes and, in certain instances, Federal unemployment taxes.

notice (Form 990-N), in electronic form, containing certain basic information about the organization.[18]

Other organizations exempt from the annual information return requirement include: churches, their integrated auxiliaries, and conventions or associations of churches; the exclusively religious activities of any religious order; certain State institutions whose income is excluded from gross income under section 115; an interchurch organization of local units of a church; certain mission societies; certain church-affiliated elementary and high schools; and certain other organizations, including some that the IRS has relieved from the filing requirement pursuant to its statutory discretionary authority.[19]

Reporting relating to grants made by an organization

Section 501(c)(3) private foundations (Form 990-PF)

A section 501(c)(3) private foundation that had $5,000 or more in assets at any time during the year must complete Part XIV of Form 990-PF for the year. Line 3 of Part XIV (for 2025) requires the following information relating to grants or contributions paid by the organization during the year or approved for future payment: (1) the recipient's name and address (home or business); (2) if the recipient is an individual, the relationship to any foundation manager or substantial contributor; (3) the foundation status of the recipient;[20] (4) the purpose of the grant or contribution; and (5) the amount.

Line 3 does not distinguish between grants or contributions paid to grantees located in the United States and grants or contributions paid to grantees located outside of the United States; thus, the above information must be provided for all grants or contributions paid or approved for payment, regardless of the location of the grantee or the country of organization.

Other section 501(c) organizations (Form 990)

Most other section 501(c)(3) organizations that are required to file an annual information return, including section 501(c)(3) public charities, file Form 990 or Form 990-EZ.

Form 990-EZ filers.—An organization that files Form 990-EZ (generally, an organization with gross receipts of less than $200,000 and total assets of less than $500,000), reports the total amount of "grants and similar amounts paid" on line 10 of Part I of the form and must provide additional information on Schedule O. The instructions to Form 990-EZ for 2025 (p. 15) state that the organization must list in Schedule O each grantee organization or individual

[18] Sec. 6033(i).

[19] Sec. 6033(a)(2)(A); Treas. Reg. secs. 1.6033-2(a)(2)(i) and (g)(1).

[20] The instructions to Form 990-PF for 2025 (p. 35) list several codes that are to be used for describing a recipient organization's foundation status. The codes correspond to statuses such as private operating foundation, private non-operating foundation, public charity, supporting organization (various types), and individual.

to whom the organization made grants or paid similar amounts in excess of $5,000 during the organization's tax year.

The instructions require the name and address for grantee organizations, but not for grantee individuals. The instructions also require, for each such payee: (1) the class of activity; (2) the aggregate amount given; and (3) if an individual, the relationship of the individual to any person or corporation with an interest in the organization. Colleges, universities, and other schools that provide scholarships or other financial assistance are permitted to provide aggregate information concerning the payments. If an organization gives property other than cash, additional descriptive information relating to the property is required.

Form 990 filers.—An organization that files Form 990 must complete Schedule I for certain grants to or for domestic organizations and individuals[21] and Schedule F for certain grants to or for foreign organizations and individuals.[22]

Grants to domestic organizations or governments. In Schedule I, Part II, the filing organization must provide information relating to grants or other assistance provided to or for domestic organizations or governments for any recipient that received more than $5,000. For each such recipient, the filing organization must provide: (1) the name and address of the recipient; (2) the recipient's EIN; (3) the Code section under which the recipient organization is tax-exempt, if applicable; (4) the dollar amount of cash grants; (5) the value of non-cash property, together with the method of valuation and a description of the property; and (6) the purpose or use of the grant funds or other assistance.

In lines 2 and 3 of Part II, the filing organization must provide the total number of grant recipients that are either section 501(c)(3) organizations or government organizations and the number of grant recipients that are other types of organizations. This information need not be provided on a recipient-by-recipient basis.

Grants to domestic individuals. In Schedule I, Part III, the filing organization must provide information relating to grants or other assistance to or for domestic individuals if the total amount of such grants and assistance is more than $5,000, determined in the aggregate, not on a per-recipient basis. The information provided in Part III is aggregated by type of grant or assistance provided; individual recipients are not listed. For each category, the organization must provide: (1) the type of grant or assistance; (2) the number of recipients; (3) the aggregate dollar amount of cash grants; and (4) the value of non-cash property, together with the method of valuation and a description of the property.

Grants to foreign organizations or entities. In Schedule F, Part II, the filing organization must provide information relating to grants or other assistance provided to or for organizations or other entities outside the United States for any recipient that received more than $5,000. For each such recipient, the filing organization must provide: (1) the region where the principal foreign office of the recipient organization or entity is located (or if there is no such principal

[21] See Form 990 for 2025, Part IV, lines 21 and 22.

[22] See Form 990 for 2025, Part IV, lines 15 and 16.

office, the region where the grant funds were or will be used); (2) the purpose or ultimate use of the grant funds; (3) the dollar amount of cash grants and the manner of cash disbursement; (4) the value of non-cash property, together with the method of valuation and a description of the property.

Although the columns (a) and (b) of Part II are designated "Name of Organization" and "IRS code section and EIN (if applicable)," the columns are shaded grey, and the instructions to Schedule F (p. 3) state: "*Don't complete Part II, line 1, column (a) or (b). However, complete columns (c) through (i) as if columns (a) and (b) were completed*."[23] As such, the filing organization need not provide the name, EIN, or other identifying information relating to the specific foreign organizations or entities to which a grant or other assistance was provided.

In lines 2 and 3 of Part II, the filing organization must provide aggregate information about the tax status of the recipient organizations, specifically, the number of recipient organizations recognized as a charity by the foreign country, the number recognized as tax-exempt under section 501(c)(3) by the IRS, and the number of organizations not falling into one of the other categories. This information need not be provided on a recipient-by-recipient basis.

Grants to foreign individuals. In Schedule F, Part III, the filing organization must provide information relating to grants or other assistance to or for individuals outside the United States if the total amount of such grants and assistance is more than $5,000, determined in the aggregate, not on a per-recipient basis. The information provided in Part III is aggregated by type of grant or assistance provided; individual recipients are not listed. For each category, the organization must provide: (1) the type of grant or assistance; (2) each region in which grants or other assistance were provided to or for foreign individuals; (3) the number of recipients; (4) the aggregate dollar amount of cash grants and the manner of disbursement; and (5) the value of non-cash property, together with the method of valuation and a description of the property.

Description of Proposal

Reporting requirements

The proposal imposes additional reporting requirements on section 501(c)(3) organizations that engage in fiscal sponsorship arrangements. For each fiscal sponsorship arrangement of an organization in effect in a taxable year, the organization must report:

1. the name of each party (other than any individuals) to the arrangement;
2. (a) in the case of a fiscal sponsorship arrangement to which the specifically identified project conditions (described below) apply, the aggregate amounts made available during the taxable year under the arrangement for the specifically identified project, or

[23] Italics in original.

(b) in the case of any other fiscal sponsorship arrangement, the aggregate amounts transferred during the taxable year under the arrangement to the person on whose behalf the organization receives and administers amounts;

3. a description of the activities related to the amounts made available or transferred (as the case may be) relate;

4. the name of the individual designated as the principal officer managing the fiscal sponsorship arrangement on behalf of the organization;

5. the date on which the arrangement began, and if applicable, the date on which the arrangement ended.

The term "fiscal sponsorship arrangement" means, with respect to an applicable organization, an arrangement (A) between the organization and another person that is not exempt from tax under section 501(a), (B) under which the organization retains discretion and control over the amounts to ensure that the amounts are used to further an exempt purpose of the organization, and (C) under which one of two conditions is met:

1. the organization agrees for consideration to receive and administer funds on behalf of the other person, or

2. (a) the organization publicly solicits amounts for carrying on a specifically identified project that is represented as a means to further an exempt purpose of the organization,

   (b) the organization agrees to receive and administer amounts directed to the project and make the amounts available for the organization to carry out the project (less an amount specified in the arrangement to be used by the organization for other purposes), and

   (c) either the organization or the other person may terminate the arrangement (collectively, items (2)(a), (b), and (c) are the "specifically identified project conditions").

For purposes of the definition of "fiscal sponsorship arrangement," any entity that is owned (directly or indirectly) by the organization, which would otherwise be disregarded as an entity separate from its owner, is treated as an entity that is separate from its owner and is not exempt from tax under section 501(a).

The term "applicable organization" means a section 501(c)(3) organization that is required to file an annual Form 990 return, other than a private foundation[24] or a donor advised fund.[25]

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[24] As defined in sec. 509(a).

[25] As defined in sec. 4966(d)(2).

Improper conduit arrangements

Charitable deduction disallowance

Under the proposal, a charitable contribution for purposes of section 170(c) does not include any contribution or gift made under an improper conduit arrangement (as defined below).

Excise taxes on improper conduit arrangements

In the case of a specified tax-exempt organization, the proposal imposes a tax equal to 20 percent of the amount transferred pursuant to an improper conduit arrangement ("organizational tax"). The organizational tax imposed is paid by the organization. The proposal also imposes a tax equal to five percent of the amount transferred pursuant to an improper conduit arrangement on any organization manager who agrees to the making of a transfer pursuant to an improper conduit arrangement, knowing that the arrangement is an improper conduit arrangement ("managerial tax"). The managerial tax is paid by the organization manager who agreed to the transfer.

Additional taxes are imposed on the organization and manager if the transfer is not corrected. If an organizational tax is imposed with respect to a transfer pursuant to an improper conduit arrangement and the transfer is not corrected within the taxable period, the proposal imposes a tax equal to 100 percent of the amount of the transfer ("second-tier organizational tax"). The second-tier organizational tax is paid by the organization.

If a second-tier organizational tax is imposed and an organization manager refused to agree to part or all of the correction, the proposal imposes a tax equal to 50 percent of the amount of the transfer ("second-tier managerial tax"). The second-tier managerial tax is paid by any organization manager who refused to agree to part or all of the correction.

If more than one person is liable for the managerial tax or the second-tier managerial tax, all such persons are jointly and severally liable with respect to the transfer. With respect to an improper conduit arrangement, the maximum amount of managerial tax is $10,000 and the maximum amount of second-tier managerial tax is $20,000.

The term "specified tax-exempt organization" means (1) an organization that is exempt from tax under section 501(a) and is described in section 501(c)(3), or (2) any organization which was described in (1) at any time during the five-year period ending on the date of the transfer pursuant to an improper conduit arrangement. The term "improper conduit arrangement" means, with respect to a specified tax-exempt organization, an arrangement (express or implied) with another person under which (A) contributions are solicited or received to be transferred to a specifically identified person not exempt from tax under section 501(a), and (B) the organization fails to exercise discretion and control over the use of the funds. The terms "correction" and "correct" mean, with respect to any transfer, recovering part or all of the transfer to the extent recovery is possible, and where full recovery is not possible, such additional corrective action as is prescribed by the Secretary by regulations.

The term "taxable period" means, with respect to any transfer under an improper conduit arrangement, the period beginning with the date on which the transfer occurs and ending on the earlier of (1) the date of mailing of a notice of deficiency under section 6212 with respect to the organizational tax, or (2) the date on which the organizational tax is assessed.

The term "organization manager" means, with respect to a specified tax-exempt organization, any officer, director, or trustee of the organization (or any individual having powers or responsibilities similar to those of officers, directors, or trustees of the organization).

The Secretary is directed to prescribe regulations as may be necessary or appropriate to clarify (A) arrangements to which section 6033(p)(1) (definition of "fiscal sponsorship arrangement," as added by the proposal) applies, and (B) what constitutes "discretion and control" for purposes of sections 6033(p)(1)(C) (definition of "fiscal sponsorship arrangement") and 4960A(d)(2)(B) (definition of "improper conduit arrangement") (as added by the proposal).

Effective Date

The proposal applies to taxable years beginning after December 31, 2027.

B. Estimated Revenue Effects of the Proposal

The proposal is estimated to have a negligible effect on Federal fiscal year budget receipts over the 2027-2036 budget window.