

**DESCRIPTION OF H.R. 8290, THE
“FOREIGN GRANT REPORTING ACT”**

Scheduled for Markup
by the
HOUSE COMMITTEE ON WAYS AND MEANS
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Prepared by the Staff
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JOINT COMMITTEE ON TAXATION



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INTRODUCTION

The House Committee on Ways and Means has scheduled a committee markup for May 15, 2024, of H.R. 8290, the “Foreign Grant Reporting Act.” This document,¹ prepared by the staff of the Joint Committee on Taxation, provides a description of this bill.

¹ This document may be cited as follows: Joint Committee on Taxation, *Description of H.R. 8290, the “Foreign Grant Reporting Act”* (JCX-15-24), May 13, 2024. 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. Disclosure of Grants Made by Certain Tax-Exempt Organizations to Foreign Entities

Present Law

Form 990 reporting by tax-exempt organizations, in general

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 may prescribe.² 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).³

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 notice (Form 990-N), in electronic form, containing certain basic information about the organization.⁴

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

² Sec. 6033(a).

³ 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.

⁴ Sec. 6033(i).

certain other organizations, including some that the IRS has relieved from the filing requirement pursuant to its statutory discretionary authority.⁵

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 2023) 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;⁶ (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 then is required to provide additional information on Schedule O. The instructions to Form 990-EZ for 2023 (p. 15) states that the organization must list in Schedule O each grantee organization or 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 give property other than cash, additional descriptive information relating to the property is required.

⁵ Sec. 6033(a)(2)(A); Treas. Reg. secs. 1.6033-2(a)(2)(i) and (g)(1).

⁶ The instructions to Form 990-PF for 2023 (p. 36), 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.

Form 990 filers.—An organization that files Form 990 must complete Schedule I for certain grants to or for domestic organizations and individuals⁷ and Schedule F for certain grants to or for foreign organizations and individuals.⁸

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 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.*”⁹ As such, the filing

⁷ See Form 990 for 2023, Part IV, lines 21 and 22.

⁸ See Form 990 for 2023, Part IV, lines 15 and 16.

⁹ *Italics* in original.

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 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

The proposal provides that an organization described in section 501(c) which files an annual information return to the IRS, and is required to provide information relating to grants or other assistance provided by the organization to any foreign entity, must include in the return, in addition to the information on foreign grants otherwise required, the following information: (1) the name and address of the foreign entity, (2) the aggregate amount of grants or other assistance provided to the foreign entity during the year, (3) whether the foreign entity is one of the following: (i) an entity recognized as a charity by the foreign country in which the entity is organized, (ii) an organization described in section 501(c)(3) and exempt from Federal income tax under section 501(a), (iii) an organization with respect to which the filing organization has made a good faith determination that the foreign entity is an organization described in section 4945(d)(4)(A),¹⁰ or (iv) an organization which is not described in (i), (ii), or (iii).

For this purpose, the term “foreign entity” means any organization or entity created or organized outside the United States (including possessions of the United States).

In the case of any grant or other contribution made indirectly to a foreign entity, information must be reported on the annual information return with respect to each person to which the grant or other contribution is made directly or indirectly.

¹⁰ The following organizations are described in section 4945(d)(4)(A): (1) a publicly or broadly supported organization described in section 509(a)(1) or (2); (2) a supporting organization described in section 509(a)(3) (other than an organization described in section 4942(g)(4)(A)(i) (*i.e.*, Type III supporting organization that is not functionally integrated) or section 4942(g)(4)(A)(ii) (*i.e.*, a Type I, Type II, or functionally integrated Type III supporting organization if one or more disqualified persons of the private foundation directly or indirectly controls the supporting organization or one of its supported organizations); and (3) an exempt operating foundation.

Effective Date

The proposal is effective for returns filed for taxable years beginning after the date of enactment.

B. Estimated Revenue Effects of the Proposal

The proposal is estimated to have a negligible effect on Federal fiscal year budget receipts over the 2024-2034 budget period.