

Introduction: Types of Exempt Organizations and What They May Do

THE CONNECTION

Strategies for Creating and Operating 501(c)(3)s, 501(c)(4)s and Political Organizations

Third Edition

B. Holly Schadler

CONTENTS

- A. The Purpose of This Guide 1
- B. Different Kinds of Exempt Organizations 1
 - 1. Tax Exemption and Advocacy 1
 - 2. 501(c)(3) Organizations 3
 - 3. 501(c)(4) Organizations 3
 - 4. Political Organizations 4
- C. Working in Coalitions and Other Joint Activities. 8
 - 1. Coalition Structures 8
 - 2. Joint Activities 8
- Introduction Endnotes 10

INTRODUCTION: TYPES OF EXEMPT ORGANIZATIONS AND WHAT THEY MAY DO

A. THE PURPOSE OF THIS GUIDE

A 501(c)(3) public charity that organizes a 501(c)(4) social welfare organization and a 501(c)(4) that creates a political organization can greatly expand their permissible advocacy opportunities. Similarly, a 501(c)(4) that organizes a 501(c)(3) may expand its educational and charitable activities by creating additional funding opportunities. This guide talks about organizing and managing these organizations and the legal relationships and the need to maintain separation between and among them.

Chapter I provides an introduction to these types of tax-exempt organizations and the rules governing lobbying and political activities conducted by 501(c)(4)s. Chapter II discusses the steps for establishing a 501(c)(4) and the specific requirements to protect and preserve the public charity status of the 501(c)(3) once a related 501(c)(4) is established. It summarizes the types of advocacy activities that each organization may conduct and discusses the practical considerations and requirements for structuring and managing the relationships between 501(c)(3)s, 501(c)(4)s, and political organizations. Chapter III sets out the types of political organizations and the rules governing their activities. Chapter IV discusses how to organize a separate segregated fund and the rules governing these entities. Finally, Chapters V and VI discuss the rules governing Independent Expenditure Only PACs (commonly referred to as “Super PACs”) and Nonconnected PACs, respectively.

Organizing and managing the activities of multiple tax-exempt organizations are not always easy and are not the best strategy for every group. The Internal Revenue Service (IRS) has provided limited guidance on setting up affiliated entities. Adding a new entity also increases the costs and administrative burdens of managing organizations. This guide will identify and address these issues in order to assist in determining whether establishing multiple organizations is necessary or advantageous. *The Connection*, however, is no substitute for a trained lawyer’s review of particular issues facing an organization. Therefore, it is advisable to consult a knowledgeable lawyer before proceeding.

The scope of political activities depends on the organization’s category of tax exemption.

B. DIFFERENT KINDS OF EXEMPT ORGANIZATIONS

1. Tax Exemption and Advocacy

An increasing array of laws and regulations applies to the actions of nonprofits. The most important rules discussed in this guide come from federal tax and election statutes and from the IRS and Federal Election Commission (FEC) regulations that implement those statutes. Generally, the scope of political activities depends on the organization’s category of tax exemption.

A public charity organized under section 501(c)(3) of the Internal Revenue Code (IRC) generally pays no taxes on its income, and the contributions it receives are tax-deductible by the donor. Public charities are absolutely prohibited from supporting or opposing candidates for public office, but may conduct a limited amount of lobbying.

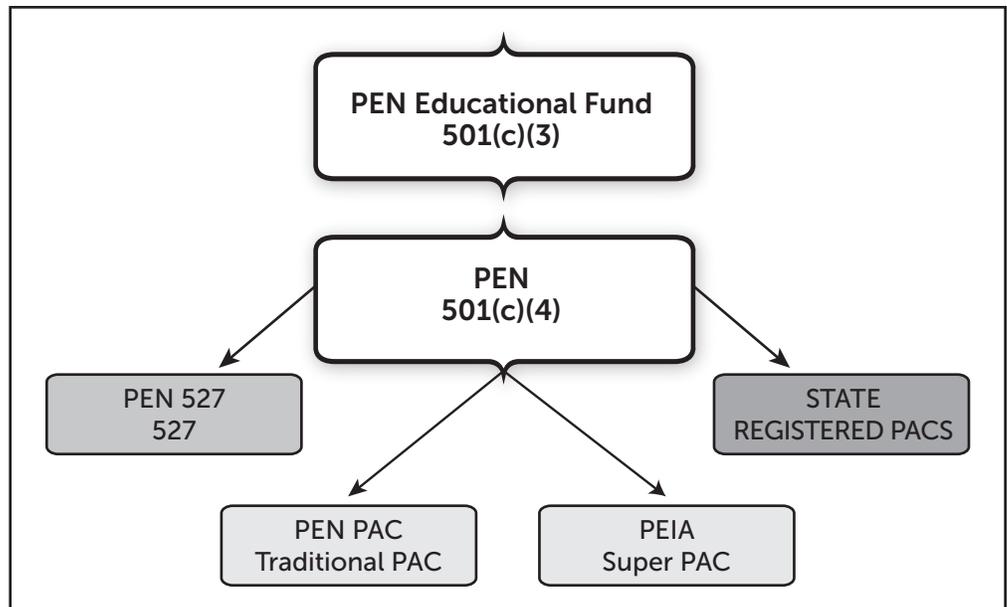
A 501(c)(4) social welfare organization generally pays no taxes on its income, but may not offer its donors a tax deduction. Social welfare organizations may conduct unlimited lobbying and may engage in partisan political campaign work, but only as a secondary activity.

Finally, a 527 political organization pays no tax on its operating income, but does pay tax on its investment income.¹ Donations to political organizations are not tax-deductible. The main purpose of a political organization is to influence the selection of candidates for public office.²

Examples:

The examples in this guide will use fictional organizations to demonstrate how multiple entities may work together. The organizations are:

- Protect the Environment Now Education Fund (“PEN Education Fund” or “Fund”), a charitable and educational organization that is tax-exempt under IRC section 501(c)(3);
- Protect the Environment Now (“PEN”), an advocacy organization that is tax-exempt under section 501(c)(4) of the Code;
- Protect the Environment Now PAC (“PENPAC”), a separate segregated fund (“SSF”) connected to PEN. PENPAC is exempt from tax under IRC section 527 and registered with the FEC to make contributions to or expenditures on behalf of federal candidates;
- Protect the Environment Now 527 (“PEN 527”), a separate segregated fund (“SSF”) connected to PEN and exempt from tax under IRC section 527. It seeks to influence elections, but it does not endorse candidates, contribute to campaigns, coordinate its activities with campaigns, or engage in express advocacy; it is registered with the IRS but not with the FEC or under any state campaign finance laws; and
- Protect the Environment Independent Action (“PEIA”), a Nonconnected political committee exempt from tax under IRC section 527 and registered with the FEC as an Independent Expenditure Only committee (often referred to as a “Super PAC”) to conduct independent expenditures in federal races.



2. 501(c)(3) Organizations

An organization exempt under section 501(c)(3) is required to devote its resources to educational, religious, scientific, and/or other charitable activities. Contributions to a 501(c)(3) are deductible from a donor's federal income tax and are not subject to federal gift tax. In addition, public charities are not required to disclose their donors publicly.

Public charities may engage in only a limited amount of lobbying. Lobbying by a public charity is limited to either an "insubstantial" part of its total activity or to lobbying expenditures that could be as much as 20 percent of its annual budget depending on whether the charity operates under the "Insubstantial Part Test" or elects to lobby under the "Expenditure Test." Lobbying includes activities to influence Congress or a state or local legislature, as well as to support or oppose ballot measures. A 501(c)(3) is strictly forbidden from engaging in any political activity on behalf of or in opposition to a candidate for political office. A 501(c)(3) may, however, conduct various nonpartisan election-related activities. It may:

- engage in limited lobbying, including ballot-measure advocacy;
- conduct public education and training sessions about participation in the political process;
- educate candidates on public issues;
- publish legislative scorecards (with certain restrictions);
- prepare candidate questionnaires (with certain restrictions);
- canvass the public on issues;
- sponsor candidate debates (with certain restrictions);
- advocate in connection with party platform issues;
- rent mailing lists and facilities at fair market value to other organizations, legislators, and candidates (with certain restrictions);
- conduct nonpartisan get-out-the-vote activities, voter registration, and education drives; and
- establish a 501(c)(4).

Alliance for Justice has published a series of nontechnical, plain-language guides describing the advocacy rules for 501(c)(3)s. For an extensive review of the lobbying rules for 501(c)(3)s, see Gail M. Harmon, Jessica A. Ladd, and Eleanor A. Evans, *Being a Player: A Guide to the IRS Lobbying Regulations for Advocacy Charities* (1995); for more information on the range of permissible voter education activities by 501(c)(3) organizations, see Laurence E. Gold and Rosemary Fei, *The Rules of the Game: An Election Year Legal Guide for Nonprofit Organizations* (2010); for details on permissible ballot measure activities for 501(c)(3)s, see Gregory L. Colvin and Lowell Finley, *Seize the Initiative* (1996); for information on foundation funding of 501(c)(3) advocacy activities, see *Investing in Change: A Funder's Guide to Advocacy* (2004), *Myth v. Fact: Foundation Support of Advocacy* (1995), and *Foundations and Ballot Measures: A Legal Guide* (1998).

3. 501(c)(4) Organizations

A 501(c)(4) is a social welfare organization that may pursue educational, lobbying, and some limited political activities. No limit exists on the amount of lobbying a 501(c)(4) may conduct, including working for the passage or defeat of ballot measures. Contributions to a 501(c)(4) are not tax-deductible. In addition, 501(c)(4)s are not required to disclose their donors publicly except under very limited circumstances.

While contributions to organizations exempt from tax under IRC sections 527 and 501(c)(3) are specifically excluded from the gift tax provisions, donations by individuals

A 501(c)(4) is a social welfare organization that may pursue educational, lobbying, and some limited political activities.

to a 501(c)(4) in excess of \$13,000 are not explicitly excluded.³ Although there has been uncertainty about the application of the gift tax to donations to 501(c)(4)s, the IRS announced in 2011 that it was closing all gift tax examinations of taxpayers who contributed to 501(c)(4)s and that, while it studies the gift tax issue, it would not open new examinations of gifts to 501(c)(4)s.⁴

Unlike a 501(c)(3), a 501(c)(4) may carry out political activities without jeopardizing its tax-exempt status as long as it is engaged *primarily* in non-electoral activities that promote social welfare. Generally, “social welfare” means promoting social improvement and civic betterment. Education and lobbying on social and economic issues qualify as social welfare activities, but participation in partisan political campaigns does not. A 501(c)(4) may, as a *secondary* activity, engage in partisan political activities, including independent expenditures (communications that are not coordinated with a candidate or political party and that do not expressly advocate the election or defeat of a candidate), without adversely affecting its tax-exempt status. Such activities must comply with federal or state campaign finance law. In some cases, the 501(c)(4) must pay taxes on some or all of the funds used for political activities.⁵

A 501(c)(4) may:

- engage in all of the lobbying and advocacy activities permitted for a 501(c)(3), without limit;
- endorse candidates and publicize its endorsements;
- publically distribute voter guides and other communications that may support or oppose candidates (with certain restrictions);
- permit candidates to address its members;
- send its mailing lists and provide facilities to selected candidates at fair market value; and
- establish and pay for the administrative and fundraising costs of a connected political organization.

Some of these activities are subject to federal or state election laws, as discussed in further detail elsewhere in this guide.

4. Political Organizations

A political organization exists primarily to influence the outcome of elections. IRC section 527 addresses the tax treatment of all political organizations.

A political organization is generally exempt from taxation to the extent that it spends its funds on political activities and related expenses. Political activities include influencing or attempting to influence the selection, nomination, election, or appointment of any individual to any federal, state, or local public office or an office in a political organization.⁶ Political organization income is exempt from tax unless it is (1) investment income, (2) trade or business income, or (3) income that is spent or set aside to fund activities that do not qualify as political activities.⁷

Political organizations governed by IRC section 527 may be divided into three broad categories:

- federal political committees (Federal PACs) that seek to influence the election of federal candidates and must register with and report to the Federal Election Commission;
- state political committees (State PACs) that seek to influence the election of state and local candidates and must register with and report to state election agencies; and
- other “527s,” most of which must register with and report to the IRS but are not required to register with the FEC or any state agency.

One major distinction among the categories of political organizations is that Federal and State PACs may generally contribute directly to candidates and may make independent expenditures that expressly support the election or defeat of a candidate, while other 527s that are not registered with the FEC or the applicable state agency may generally not contribute to or support specific candidates. The chart that appears later in this section explains the differences in greater depth.

There is now a type of Federal PAC, commonly known as a Super PAC, that may receive unlimited contributions. Prior to the 2010 decision in *SpeechNow.org v. Federal Election Commission*,⁸ all Federal PACs were limited in the size of contributions that they could receive. A Federal PAC could accept contributions of \$5,000 or less per year from individuals or other Federal PACs; contributions from labor unions and corporations were prohibited. While these limits continue to apply to PACs that make contributions to federal candidates and other political committees, PACs that make independent expenditures *only* may now accept unlimited funds from individuals and other sources. Therefore, Federal PACs are now distinguished into two categories: “Traditional PACs,” which may make contributions and independent expenditures, and “Independent Expenditure Only PACs” (“Super PACs”), which may make independent expenditures but not contributions in federal races.

PACs that make independent expenditures only may now accept unlimited funds from individuals and other sources.

Generally, political organizations may be organized as either:

- a **separate segregated fund (SSF)**, which is a political organization established and administered by a corporation or union, including an incorporated 501(c)(4) organization, for the purpose of conducting political activities; or
- a **Nonconnected committee**, which is a political organization generally established by a group of individuals independent of any sponsoring corporation or union.

At the time of publication of this guide, the question of whether a Super PAC may be established as an SSF is unresolved. Note that generally the legal landscape regarding political organizations is in great flux, so it is essential to consult an attorney who specializes in political law before establishing a political organization on the federal or state level. Alliance for Justice will post occasional updates on its website regarding significant new developments.

Comparison of 501(c)(3)s*, 501(c)(4)s, and Political (527) Organizations

	501(c)(3)s	501(c)(4)s	Political (527) Organizations
Tax Status	Tax-exempt; contributions to a 501(c)(3) are generally tax deductible; contributions are not subject to federal gift tax	Tax-exempt; contributions to a 501(c)(4) are not generally tax deductible	Tax-exempt; contributions to a 527 are not tax deductible; contributions are not subject to gift tax
Related Organizations	May establish a 501(c)(4)	May establish a 501(c)(3) and 527	May be established by a 501(c)(4)
Lobbying Activities	Limited lobbying expenditures, including ballot measures and judicial nominations	No limit on lobbying expenditures, including ballot measures and judicial nominations	Limited (insubstantial) lobbying expenditures permissible, but may be subject to tax if not furthering political purposes
Political Activities	Prohibited from engaging in any partisan political activities; may conduct nonpartisan voter engagement activities May not establish a 527 for political activities <i>Penalties:</i> revocation of tax-exempt status and excise taxes on both the organization and its managers	May carry on partisan political activities subject to federal and state campaign finance laws Must be "secondary," not "primary" purpose of the organization May establish a 527 for political activities May be taxed on political expenditures	No limit on aggregate expenditures; subject to federal and state campaign finance laws including limits on contributions
Application for Tax-Exempt Status and Subsequent Reporting Requirements	IRS Form 1023; report annually on IRS Form 990 ⁹	IRS Form 1024; report annually on IRS Form 990; Form 1120-POL for political expenditures	Depends on type of 527; see following chart
IRS Requirements for Disclosing the Non-Deductibility of Contributions on Fundraising Solicitations	Not required	For contributions, disclosure of non-deductibility required on all solicitations by writing, television, radio, or telephone (with limited exceptions) For business expense deductions, may be required to disclose percentage of dues used for lobbying and political activities (with limited exceptions)	Disclosure of non-deductibility required on all solicitations by writing, television, radio, or telephone; other disclosures and requirements may apply under federal or state campaign laws
Public Disclosure of Contributors	Not required; disclose on Form 990 but not for public inspection	Not required; disclose on Form 990 but not for public inspection; may be required for ballot measure activity or electoral activity	Yes; disclose on Form 8872 or under federal or state campaign finance laws

* These rules apply to public charities only. Private foundations are subject to more restrictive rules.

Types of Political Organizations			
	Federal PACs	527s*	State PACs
Registration Requirements	File FEC Form 1 within ten days of formation (SSF) or raising or spending >\$1000 (nonconnected)	File IRS Form 8871 if the organization anticipates having at least \$25,000 in receipts or expenditures for any taxable year ¹⁰	File IRS Form 8871 if the organization anticipates having at least \$25,000 in receipts or expenditures for any taxable year
Periodic Reporting Requirements	File reports on FEC Form 3X, listing contributors and expenditures	Disclose contributors who donated \$200 or more and expenditures of \$500 or more on IRS Form 8872; must file electronically if it expects to spend or receive more than \$50,000 in a calendar year	Must report to state agency; generally excluded from requirement to file Form 8872 ¹¹
Annual Tax and Information Returns	File IRS Form 1120-POL only if the organization has taxable income in excess of \$100 for that year; exempt from filing Form 990	File IRS Form 990 depending on the organization's gross receipts; file Form 1120-POL only if the organization has taxable income in excess of \$100 for that year	File IRS Form 990 depending on gross receipts; file Form 1120-POL only if the organization has taxable income in excess of \$100 for that year
Limits on Donors' Contributions, Source, and Amount	<i>All Federal PACs:</i> No contributions from foreign nationals, national banks, or government contractors <i>Traditional PAC:</i> \$5,000 annual limit per contributor; ¹² may accept contributions only from individuals and other Federal PACs; no corporate or union funds <i>Super PAC:</i> No limit. Nonconnected Super PACs may accept contributions from any source	No contributions from foreign nationals, national banks, or government contractors No limit; may accept contributions from individuals, corporations, unions, and other donors	No contributions from foreign nationals, national banks, or government contractors Consult state or local law on contribution limits and source restrictions
Contributions to Candidates	\$5,000 limit per candidate if the Traditional PAC meets certain requirements; ¹³ Super PACs may not make contributions	May not contribute to federal candidates or political parties	May not contribute to federal candidates; subject to state and local contribution laws
Endorsing Candidates and Running Advertisements Supporting or Opposing Candidates	May endorse candidates and expressly advocate the election or defeat of an identified candidate	Generally may not engage in express advocacy (See Chapter 1, (D) for definition of express advocacy); state laws vary	May endorse candidates and expressly advocate the election or defeat of an identified candidate as subject to state and local law
Coordinating with Campaigns or Political Parties ¹⁴	Traditional PACs may pay for "coordinated" communications, but the cost of the expenditure is treated as an in-kind contribution; ¹⁵ Super PACs may not make "coordinated communications"	May not coordinate with campaigns	Activities are regulated by state and local campaign laws

* Some exceptions to the registration and reporting requirements are set out in more detail in Chapter IV of this guide.

Participation in a coalition to exchange non-electoral information or sponsor educational programs on issues of interest to the groups is permissible.

C. WORKING IN COALITIONS AND OTHER JOINT ACTIVITIES

Tax-exempt organizations often choose to work in coalitions to organize conferences, lobby on legislation, or better coordinate their advocacy activities. When the organizations have the same tax-exempt status, few issues arise from this coordinated participation. However, when a 501(c)(3) participates in a coalition with 501(c)(4)s, it is important to structure the 501(c)(3)'s activities as part of the coalition so that they do not jeopardize the 501(c)(3)'s tax status.

A 501(c)(3) may join a coalition composed of 501(c)(3)s and 501(c)(4)s for any purpose consistent with its exempt status, such as conducting research or preparing and publicizing materials on a current issue. A 501(c)(3) could also join a coalition to lobby on issues. However, a 501(c)(3) may not do anything indirectly through participation in a coalition that it may not do individually. Participation in a coalition to exchange non-electoral information or sponsor educational programs on issues of interest to the groups is permissible. A 501(c)(3) may also conduct voter registration, voter education, and get-out-the-vote activities so long as these activities are nonpartisan.

Example:

The PEN Education Fund conducts voter education activities with 501(c)(4) groups. These activities are permissible so long as the activities meet the 501(c)(3) criteria and the coalition does not endorse candidates or take other partisan positions. If the Fund were asked to join together with several organizations, including 501(c)(4)s and PACs, in order to publish partisan voter guides before an election, such activity would be prohibited and would jeopardize the organization's tax-exempt status.

1. Coalition Structures

When a coalition intends to be active on an ongoing basis, it may choose to incorporate or organize as an unincorporated association. As a separate entity, the coalition may wish to apply for tax-exempt status under section 501(c)(3) or 501(c)(4) and obtain its own Employer Identification Number (EIN) by filing an IRS Form SS-4.

Many coalitions are not established as separate legal entities, but operate informally under a variety of arrangements. For example, the members of a coalition may meet to share information or plan joint or common activities with each of the participants paying its own expenses. Generally, in these situations, the expenditures by the other participants do not count toward a 501(c)(3)'s own lobbying limits.

Alternatively, one of the members of the coalition could agree to act as the sponsor of the coalition. Under this structure, the members of the coalition and other funders of the effort contribute to the designated organization. All of the coalition's activities paid for by the sponsor (including lobbying activities) would be considered activities of the sponsor and would be reported on its information return (Form 990) to the IRS. For this reason, 501(c)(3) organizations may be a poor choice to sponsor coalitions that will do significant amounts of lobbying.

2. Joint Activities

Questions frequently arise in determining how or whether a 501(c)(3) may engage in joint activities and information exchanges with 501(c)(4)s, 501(c)(5)s (labor unions), and other 501(c) organizations, as well as political organizations.

Joint nonpartisan activities: A 501(c)(3) may engage in voter education and registration with a 501(c) or 527 organization so long as the activities are conducted in a strictly nonpartisan manner. All of the group's joint written materials and oral communications must be nonpartisan. No partisan literature or communications may be distributed by any of the participating groups

as part of the joint activity. In addition, the geographic areas selected for conducting the activities must be determined using nonpartisan criteria. While the other participating 501(c)s and PACs may continue to engage in their own partisan activities, these must remain completely separate from their nonpartisan activities conducted jointly with the 501(c)(3).

Influencing ballot measures: A 501(c)(3) may also work with 501(c)(4)s on ballot measure campaigns. Activities to support or oppose ballot measures and referenda are treated as direct lobbying. Therefore, the amount of expenditures that a 501(c)(3) may make is limited. (See *Being a Player*, Alliance for Justice, for more information about the limits on lobbying.) If organizations other than the 501(c)(3) are conducting partisan electoral work in conjunction with their ballot measure activities, a 501(c)(3) should not participate in that coalition effort.

Renting and exchanging information: Because a 501(c)(3) organization may not make a contribution, including an in-kind contribution, to a 527, it may not *give* its lists (or other data such as lists of registered voters) to a 527 without charge. Allowing a 527 to use its mailing list even on a one-time basis constitutes providing something of value even if the 501(c)(3) generally makes its list available to other 501(c)(3) organizations without charge. Therefore, a 501(c)(3) must *rent or sell* its list to a 527 for fair market value. In addition, the IRS has taken the position that, once the 501(c)(3) makes a list available to a political entity, it must offer and make the list available to any other political entities that request the list.¹⁶ Using a list broker is the safest way to satisfy this second requirement and to establish the fair market value of the list.

A 501(c)(3) may also *exchange* its list for an equivalent number of new names of equal value to be provided by the 501(c) or 527 within a reasonable period of time, provided that the 501(c) or 527 agrees to pay the fair market value of the list if it is unable to provide the new names to the 501(c)(3) within the agreed period. In order to determine fair market value, it may be helpful to have each list valued by a list broker or other professional list manager.

A 501(c)(3) may accept lists from a 527 or other 501(c) organization to conduct its nonpartisan activities. There must not be, however, any requirement or understanding that the 501(c)(3) organization will use that information to further the partisan interests of the 527 or 501(c). Moreover, the 501(c)(3) may not receive partisan information collected by the 527, such as candidate preference identification data. Finally, the 501(c)(3) may not use lists that target particular geographic areas or individual voters based on partisan criteria. For example, a 501(c)(3) may not use a list that identifies voters who live in Democratic precincts or who have been selected based on their support for a particular candidate.

Voter registration lists: A 501(c)(3) may not freely share the voter registration lists or other data that it collects during voter registration or education activities with partisan organizations. This information is the property of the 501(c)(3) and may only be rented to a 501(c)(4) or 527 at fair market value or exchanged for data of equal value under certain circumstances. (See the discussion of sharing lists above.)

Even if these guidelines are strictly followed, however, it is possible that the media or other groups may raise issues about such cooperative activities, questioning whether the partisan objectives of the 527 are attributable to the 501(c)(3). Therefore, the risk of adverse publicity for your efforts should be considered in your decision whether to conduct joint activities with a 527 organization.

Training and technical assistance: The issue of whether a 501(c)(3) may accept training and other technical assistance from staff and consultants of a 527 organization frequently arises. For example, a 501(c)(3) might wish to provide training to its staff and volunteers on door-to-door canvassing. In the event that staff or consultants are invited to assist with training or provide technical assistance, it is critical that the information provided and programs planned are strictly nonpartisan.

INTRODUCTION ENDNOTES

- ¹ I.R.C. §§ 527(b), (c); Treas. Reg. §§ 1.527-3, -6. All citations to the Internal Revenue Code or the Treasury regulations refer to the most current edition as of the date of publication unless otherwise noted.
- ² I.R.C. § 527(e).
- ³ See I.R.C. § 2501 *et seq.*
- ⁴ IRS Memorandum, Guidance for SB/SE Estate and Gift Tax and TE/GE Organizations, July 7, 2011. The announcement states that the IRS will not require taxpayers to pay gift tax on contributions to section 501(c)(4) organizations until after the IRS provides adequate public notice that such contributions are taxable. Even then, the gift tax would apply only prospectively. The IRS is not stating conclusively that the gift tax either applies or does not apply to contributions to 501(c)(4) organizations, but it is acknowledging that there has been little enforcement on this topic and that the gift tax involves complicated legal and policy issues.
- ⁵ I.R.C. § 527(f).
- ⁶ I.R.C. § 527(e)(2).
- ⁷ I.R.C. § 527; Treas. Reg. § 1.527-3.
- ⁸ *SpeechNow.org v. FEC*, 599 F.3d 686 (2010).
- ⁹ Depending on the amount of their gross receipts and total assets, section 501(c)(3) and 501(c)(4) organizations must file IRS Form 990, 990-EZ, or 990-N. Current filing thresholds are available on the IRS website at <http://www.irs.gov/charities/article/0,,id=184445,00.html>. Different filing thresholds apply to Section 527 organizations; see I.R.C. § 6033(g). The IRS has posted these requirements at <http://www.irs.gov/charities/political/article/0,,id=96432,00.html>.
- ¹⁰ I.R.C. § 527(i)(5)(B).
- ¹¹ Some states may not meet the required minimal disclosure requirements; organizations in those states must report with the IRS. See Rev. Rul. 2003-49, 2003-1 C.B. 903.
- ¹² 2 U.S.C. § 441a(a)(1)(C) (2012). This contribution limit is not indexed for inflation; see 2 U.S.C. § 441a(c) (2012).
- ¹³ A PAC that has been registered with the FEC for more than six months, has received contributions for federal elections from more than 50 people, and has contributed to at least five candidates qualifies as a “multicandidate committee” and may contribute up to \$5,000 per election to a candidate. 2 U.S.C. § 441a(a)(2)(A) (2012); 11 C.F.R. § 100.5(e)(3) (2012). Other PACs are limited to \$2,600 for the 2012 elections. 11 C.F.R. § 110.1(b)(1) (2012); see also FEC, Contribution Limits 2013-14, <http://www.fec.gov/pages/brochures/contriblimits.shtml> (last visited Feb 2013).
- ¹⁴ A communication is “coordinated” if it meets content and conduct standards provided at 11 C.F.R. § 109.21 (2012).
- ¹⁵ 11 C.F.R. § 109.21(b) (2012).
- ¹⁶ See Judith E. Kindell & John Francis Reilly, Internal Revenue Service, *2002 Exempt Organizations Continuing Professional Education Text*, “Election Year Issues” at 383-84 [hereinafter 2002 CPE Text], available at <http://www.irs.gov/pub/irs-tege/eotopic02.pdf>

ABOUT THE AUTHOR

HOLLY SCHADLER is a partner at the law firm Trister, Ross, Schadler & Gold, PLLC. Her practice includes representation of clients on nonprofit tax law, tax litigation, state and federal campaign finance and lobbying laws, and political ethics. She has represented clients in administrative cases before the Internal Revenue Service and the Federal Election Commission.

Ms. Schadler is an author of numerous legal guides and articles for nonprofit organizations, including: *Non-Profit Organizations, Public Policy, and the Political Process: A Guide to the Internal Revenue Code and Federal Election Campaign Act*; *The Effect of Citizens United on Tax and Campaign Laws Governing Tax-Exempt Organizations* (coauthored with, Laurence Gold); “No Free Lunch? The House and Senate Rules for Nonprofit Organizations”; “The Courts Point the Way to Royalty Treatment for UBIT Purposes”; and “Bipartisan Campaign Reform Act of 2002: How Will It Affect Nonprofits?” In addition, Ms. Schadler assisted in the preparation of Alliance for Justice’s publication *Investing in Change: A Funder’s Guide to Supporting Advocacy*. Ms. Schadler has also lectured at numerous seminars sponsored by nonprofit and political organizations on the laws governing lobbying, political activities, and unrelated business income tax.

Ms. Schadler has litigated before the U.S. Tax Court and U.S. Court of Appeals for the Ninth Circuit on behalf of the Sierra Club and other clients, successfully challenging the application of unrelated business income tax to mailing list rental and affinity credit card income.

Prior to practicing law, Ms. Schadler was Associate Political Director of the Sierra Club. She received her law degree from George Washington University with honors and graduated from Vassar College with honors in Eastern European History. She can be contacted at:

B. Holly Schadler, Esq.
Trister, Ross, Schadler & Gold, PLLC
1666 Connecticut Avenue, NW
Washington, DC 20009
Email: hschadler@tristerross.com

ABOUT ALLIANCE FOR JUSTICE

ALLIANCE FOR JUSTICE is a national association of environmental, civil rights, mental health, women’s, arts, and consumer advocacy organizations. Alliance for Justice works to secure access to justice for all Americans, strengthen the role of nonprofit organizations in public policy, and foster the next generation of advocates.

Through Bolder Advocacy, its nonprofit advocacy program, Alliance for Justice works to increase nonprofits’ involvement in the policymaking process. In addition to publications like this one, Alliance for Justice supports nonprofit advocacy through workshops and individualized technical assistance. Alliance for Justice also monitors legislative activity related to nonprofit advocacy, providing information to the charitable community and lobbying to reduce restrictions on nonprofits.