

## Supporting the Social Welfare: Giving to 501(c)(4) Organizations

If you care about policy issues and want your contributions to be used to change laws, support or oppose ballot measures, and/or advocate for candidates who champion certain beliefs, then consider donating to a 501(c)(4) organization. Some examples of 501(c)(4) organizations include Human Rights Campaign, Sierra Club, and Planned Parenthood Action Fund. A 501(c)(4) organization may engage in all activities a 501(c)(3) public charity can, but can do more—it can do as much lobbying as it wants and can even support or oppose candidates for public office, to a limited degree. Contributions and membership dues to a 501(c)(4) are not tax-deductible as charitable contributions, however.

### What can a 501(c)(4) organization do with the funds I donate?

A 501(c)(4) organization may engage in an unlimited amount of the following activities with the money you donate:

- Educational activities – For example, distributing a report on the importance of quality, affordable childcare, preschool and early education support for all families who need it;
- Issue advocacy – Advocating for an issue like marriage equality or health care reform;
- Voter registration and get-out-the-vote activities – For example, conducting nonpartisan activities and encouraging voters to “Vote Pro-Choice”; and
- Lobbying – Supporting or opposing specific bills, ordinances, and ballot measures<sup>1</sup>. In fact, a 501(c)(4) can be created for the sole purpose of lobbying.

A 501(c)(4) organization can even do a limited amount of work to support or oppose candidates for public office, including endorsing candidates, comparing candidates in a voter guide, or running ads highlighting the great record of one candidate. While a 501(c)(4) can do as much lobbying and public education work as it wants, supporting or opposing candidates for public office cannot be its “primary purpose.”

Therefore, a 501(c)(4) cannot be created for the purpose of electing or defeating a particular candidate or candidates in 2012. Additionally, 501(c)(4) organizations must comply with federal and state election law when engaging in certain partisan political activities. For example, federal and state election rules govern whether a 501(c)(4) can make a contribution to a candidate or coordinate activities with a candidate.

### What impact did *Citizens United* have on 501(c)(4)s?

*Citizens United v. FEC*, decided by the U.S. Supreme Court on January 21, 2010, fundamentally changed the rules of the game for how 501(c)(4)s and unions—as well as for-profit corporations – can participate in elections. The *Citizens United* decision provides more freedom and flexibility for 501(c)(4)s to communicate their candidate preferences to the general public. 501(c)(4)s can make “independent expenditures”—communications that are

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<sup>1</sup> Many states have registration and reporting requirements for working on ballot measures. Check with the state’s campaign finance and disclosure rules or Alliance for Justice’s State Law Resources.

not in any way coordinated with candidates or political parties that expressly advocate the election or defeat of a clearly identified candidate. Independent expenditures include, for example, candidate endorsements, voter guides that indicate who the “better” candidate is on the issues, and ads urging people to vote for a specific candidate.

### **Must the organization disclose my name to the public?**

It depends. Tax law requires 501(c)(4) organizations to identify donors who have given \$5000 or more during the year to the IRS on Schedule B of Form 990 (as must 501(c)(3) public charities). However, organizations can redact the names and addresses (and possibly other identifying information) of contributors when making Form 990 available for public inspection. Generally, though, if the 501(c)(4) solicited the funds for the purpose of making an independent expenditure to support or oppose a candidate for President, US Senate or the US House of Representatives, it must disclose your contribution on reports filed with the Federal Election Commission. Most election lawyers believe these rules do not apply to funds contributed for general support.

If the 501(c)(4) is raising money to support or oppose candidates for state elective office or state ballot measures, whether the 501(c)(4) must disclose your donation will depend upon that state’s election law. Some states require the disclosure of a 501(c)(4)’s donors if the funds are used to support candidate and/or ballot measure activity.

### **Can a foundation give to a 501(c)(4)?**

Yes, a foundation may make a grant to a 501(c)(4), subject to certain limitations.

Public foundations, such as community foundations, may make grants to a 501(c)(4) for educational and lobbying activities—any activity in which the public foundation could engage itself. The grant funds cannot be used for supporting or opposing candidates. In addition, unless the grant specifies otherwise, the grant will count against the public foundation’s grassroots lobbying limit. AFJ has a [sample grant agreement](#) to a 501(c)(4) organization on our website.

Private foundations may make grants to 501(c)(4) organizations (or other non-public charities) as long as the grant is for charitable purposes. Charitable purposes include any permissible 501(c)(3) public charity activity, except lobbying and voter registration. Although a private foundation can fund a 501(c)(3) organization for lobbying and voter registration activity, subject to specific rules, it is prohibited from funding a 501(c)(4) for these activities. The private foundation must follow very specific due diligence, oversight, and reporting requirements (called expenditure responsibility) over a grant to a non-public charity. For more information on these rules, view our [fact sheet](#) on expenditure responsibility.

## Is my donation subject to the gift tax?

At this time, no. While the IRS reviews whether contributions to 501(c)(4)s should be subject to the gift tax, it is not making any efforts to enforce the tax currently. Any potential enforcement actions will occur only after public notice has been given.

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