

Tax Corner: Political Activities of Social Welfare Organizations and Trade Associations

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Q: What are the restrictions on the campaign activities of 501(c)(4) and 501(c)(6) tax-exempt organizations?

A: 501(c)(4) and 501(c)(6) tax-exempt organizations may engage in political campaign activities, but such activities may not be their primary purpose. There is no clear standard on how much political activity is too much, but if an organization is found to be engaging primarily in intervening in election campaigns, then it could lose its tax-exempt status (organizations may also be subject to a tax based on the amount of their campaign-related expenditures). An organization that contributes money to a candidate is clearly intervening in election campaigns; however, it is less clear if an organization runs an advertisement that contains some political elements.

In an attempt to clarify the issue, the IRS issued a revenue ruling earlier this year (Rev. Rul. 2004-6 Jan. 26, 2004), which identified factors that will tend to make a communication "political." The IRS gave examples of communications that would be deemed political. Common in each of these examples was a communication that:

- (i) Identified a candidate;
- (ii) Appeared shortly before, and targeted voters in, a particular election and
- (iii) Commented on a candidate rather than speaking about an issue or legislation.

Authors

Thomas W. Antonucci
Partner
202.719.7558
tantonucci@wiley.law

A few weeks ago, the American Bar Association sent a letter to the IRS requesting that it establish a clear standard for how much a 501(c)(4) could permissibly spend on election-related activities without risking its tax-exempt status. The IRS has not taken any action in response to the ABA's letter, leaving organizations with only vague guidelines on which to rely during this upcoming election season.