



# Thank you for joining us!

The presentation will begin shortly.



accountingTODAY

2023 **Best Firms to Work For**

accountingTODAY

2024 **Firms to Watch**

accountingTODAY

2024 **Regional Leaders**

# Advocacy, Lobbying, and Political Activities for 501(c)(3)/501(c)(4) Organizations

*November 21, 2024*



CPAs & ADVISORS

# Presenters

*Meet the instructors*

---



**Dick Locastro, CPA, JD**  
Partner and Director, Nonprofit Tax



**Elinor Litwack, CPA**  
Partner, Outsourced Accounting &  
Advisory Services

# GRF CPAs & Advisors



Personal  
Service With  
Powerful  
Solutions

**Audit & Advisory Firm Headquartered in Washington, DC Metro Region,  
servicing clients across the United States and worldwide**

# GRF Solutions

---

**Traditional  
Audit & Tax**

**Outsourced  
Accounting &  
Advisory  
Services**

**Enterprise Risk  
Management**

**Internal Audit**

**Accounting  
Technology  
Solutions**

**Cybersecurity**

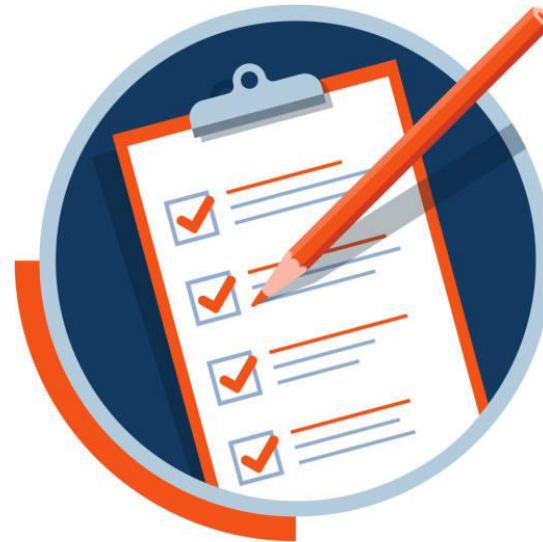


**CPAs & ADVISORS**

# Agenda

---

1. Overview of 501(c)(3) and 501(c)(4) Entity Types
2. Elements of C3/C4 Cost Sharing
3. Grants and Loans Between C3s and C4s
4. Lobbying & Political Expenditures
5. 990 Reporting
6. Bonus Content: 501(c)3 Public Support Test



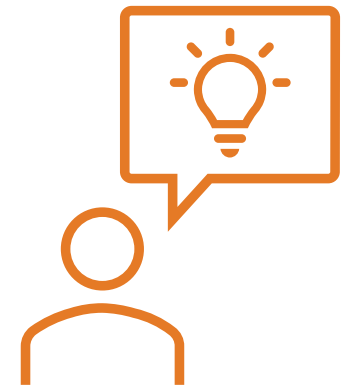
# Introduction – 501(c)(3)

---

The exempt purposes under 501(c)(3) are: religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals.

Two basic types: Public Charity and Private Foundation

- PC – (a) has broad public support, (b) actively functions to support another public charity, or (c) is devoted exclusively to testing for public safety.
- PF – grant-making organization funded by single source; taxed on investment income, stricter restrictions on transactions
- PC Examples: American Red Cross, United Way, Smithsonian Institution, Susan G. Komen Foundation
- PF Examples: Bill and Melinda Gates Foundation, MacArthur Foundation, Ford Foundation



# Introduction – 501(c)(4)

---

Two types of organizations fit into 501(c)(4) category: civic leagues, social welfare organizations, and local associations of employees. Social welfare organizations can include homeowner associations and volunteer fire companies if they fit the exemptions.

**Examples: ACLU, AARP, \_\_\_\_\_ “Action Fund”**

Side Note: Section 527 Political Action Committees

- Potential FEC reporting
- Potential IRS reporting of political contributions and expenditures (8871/8872)
- Potential 990 filing obligation (generally required if not federally registered)
- A 527 organization is subject to tax on its political organization taxable income, which equals its gross income (excluding exempt function income) less deductions allowed by the Code that are directly connected with producing gross income (excluding exempt function income), computed with certain modifications set forth in §527.



# What is Social Welfare? 501(c)(3) \*plus\*

---

## 1. Common Good and General Welfare

1. The term “social welfare” is broader than “charitable” but still not precisely defined anywhere. The regulations offer the phrase “common good and general welfare of the people of the community.”
2. Community is not specifically defined, but it should be general and not limited to certain members

## 2. Benefits beyond members

1. An organization is not operated primarily for the promotion of social welfare if its primary activity is “carrying on a business with the general public in a manner similar to organizations which are operated for profit

## 3. Primary and not Insubstantial Benefit

1. An organization seeking tax-exempt status under this section must primarily perform activities that “directly” better or improve the community as a whole
2. The courts have interpreted the Section 501(c)(4) standard as requiring an organization to be “operated exclusively” for social welfare purposes the same way they have interpreted a parallel provision of Section 501(c)(3).

# Summary of Entity Types

	501(c)(3) (Public Charity)	501(c)(4)
Purpose	Charitable/Educational	Social Welfare
Tax Deductibility of Contributions	Yes – deductible as charitable contributions	No – not deductible as charitable contributions (certain payments may be deductible as trade or business expenses if ordinary and necessary in the conduct of the taxpayer’s business)
Lobbying?	Yes, but limited	Yes, unlimited (if mission-related)
Political Campaign Intervention?	No	Yes, but limited (cannot be primary activity)

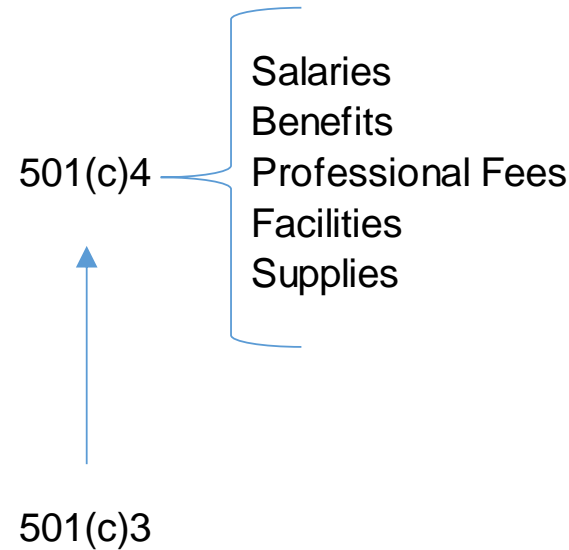
# Polling Question #1

What is your current role?

- A. *Considering forming a 501(c)4*
- B. *Currently part of a 501(c)3 / 501(c)4 organization*
- C. *Outside Accountant or Consultant*
- D. *Here for fun, just needed CPE*
- E. *Other*

# Sharing Resources Between Organizations

Organizations with common missions have a mutual best interest to minimize duplicative expenses and operate with shared resources



Cost Sharing

Fee for Service

Grantee/Grantor

Must have shared resource agreement or formal memorandum prepared by attorneys

# Accounting for Cost Sharing Agreement

Category	Amount	Paying Entity	Split	Statement of Activities			
				501(c)4	501(c)3	Total	
Salaries	1,500,000	501(c)4	70/30	Grant Revenues	2,000,000	1,000,000	3,000,000
Benefits	375,000	501(c)4	70/30	Salaries	1,050,000	450,000	1,500,000
Professional Fees	150,000	501(c)4	70/30	Benefits	262,500	112,500	375,000
Facilities	100,000	501(c)4	70/30	Professional Fees	105,000	45,000	150,000
Supplies	50,000	501(c)4	70/30	Facilities	70,000	30,000	100,000
Subgrants	150,000	501(c)3	none	Supplies	35,000	15,000	50,000
Consulting	250,000	501(c)4	none	Subgrants	-	150,000	150,000
Total Expenses	2,575,000			Consulting	250,000	-	250,000
				Total Expenses	1,772,500	802,500	2,575,000
				Net Surplus	227,500	197,500	425,000
				Due To/Due From	652,500	(652,500)	

Cost Sharing Agreement has Entity A set up to run payroll, pay vendors, lease facilities. Entity B reimburses Entity A for its portion of those costs. This reduces the costs on Entity A's books and increases the costs on Entity B's books.

# Accounting for Fee for Service Agreement

				Statement of Activities			
Category	Amount	Paying Entity	Split	501(c)4	501(c)3	Total	
Salaries	1,500,000	501(c)4	70/30	2,000,000	1,000,000	3,000,000	
Benefits	375,000	501(c)4	70/30	652,500	-	652,500	
Professional Fees	150,000	501(c)4	70/30				
Facilities	100,000	501(c)4	70/30				
Supplies	50,000	501(c)4	70/30				
Subgrants	150,000	501(c)3	none				
Consulting	250,000	501(c)4	none				
<b>Total Expenses</b>	<b>2,575,000</b>						
				Grant Revenues			
				Program Revenues			
				Salaries	1,500,000	450,000	1,950,000
				Benefits	375,000	112,500	487,500
				Professional Fees	150,000	45,000	195,000
				Facilities	100,000	30,000	130,000
				Supplies	50,000	15,000	65,000
				Subgrants	-	150,000	150,000
				Consulting	250,000	-	250,000
				<b>Total Expenses</b>	<b>2,425,000</b>	<b>802,500</b>	<b>3,227,500</b>
				<b>Net Surplus</b>	<b>227,500</b>	<b>197,500</b>	<b>425,000</b>

Fee for Service Agreement has Entity A set up to run payroll, pay vendors, lease facilities. Entity B pays Entity A for its portion of those costs, which is program revenue for Entity A.

# Side by Side Illustration

Statement of Activities			
	501(c)4	501(c)3	Total
Grant Revenues	2,000,000	1,000,000	3,000,000
Salaries	1,050,000	450,000	1,500,000
Benefits	262,500	112,500	375,000
Professional Fees	105,000	45,000	150,000
Facilities	70,000	30,000	100,000
Supplies	35,000	15,000	50,000
Subgrants	-	150,000	150,000
Consulting	250,000	-	250,000
Total Expenses	1,772,500	802,500	2,575,000
Net Surplus	227,500	197,500	425,000

Cost Sharing Agreement

Statement of Activities			
	501(c)4	501(c)3	Total
Grant Revenues	2,000,000	1,000,000	3,000,000
Program Revenues	652,500	-	652,500
Salaries	1,500,000	450,000	1,950,000
Benefits	375,000	112,500	487,500
Professional Fees	150,000	45,000	195,000
Facilities	100,000	30,000	130,000
Supplies	50,000	15,000	65,000
Subgrants	-	150,000	150,000
Consulting	250,000	-	250,000
Total Expenses	2,425,000	802,500	3,227,500
Net Surplus	227,500	197,500	425,000

Fee for Service Agreement

# Resource Sharing: Key Points

---

✓ Even if operating under similar management, shared staff and office space, the organizations must be segregated as 2 distinct entities. Each entity has its own:

- EIN
- Bank Account
- Board (some overlapping BOD members are okay)
- Accounting
- Articles and Bylaws
- Tax Return
- etc...

✓ Respect the Separate Nature of the Organizations

- Cost sharing must reflect reality
- Never want 501(c)(3) to be bearing costs in excess of what they incurred/time spent
- Revisit allocations when warranted (election season etc.)



## Polling Question #2

What type of resource sharing do you currently have?

- A. Cost Sharing*
- B. Fee for Service*
- C. Grantor/Grantee*
- D. Some Combination*
- E. N/A or None*

# Joint Websites - C3 and C4 Entities

---

- The potential danger is that 501(c)(4)'s political activities could be attributed to the 501(c)(3)
  - If the 501(c)(4) does not conduct political activity, then maintaining separate website content may not be a concern
  - Must still show that 501(c)(3) is not subsidizing the 501(c)(4) activities
  - If the 501(c)(4) does conduct political activity, then maintaining separate websites may be the best strategy
  - If separate websites, having a link from the 501(c)(3) to the home page of the 501(c)(4) should be OK
  - If there is a single website, the IRS suggest that it should clearly distinguish between 501(c)(3) and 501(c)(4) content (TAM 200908050)

See Alliance for Justice's *The Connection: Strategies for Creating and Operating 501(c)(3)s, 501(c)(4)s and Political Organizations*: <https://afj.org/resource/the-connection-strategies-for-creating-and-operating-501c3s-501c4s-and-political-organizations/>

# Shared Social Media Platforms - C3 and C4 Entities

---

- The IRS has not issued much guidance on tax-exempt organizations use of social media
- Absent specific guidance, the considerations discussed previously should apply
- As long as there is no political activity by the 501(c)(4) a shared social media platform may be acceptable
- Costs of social media activity must be shared appropriately
- The IRS will hold organizations responsible for their own website/social media content
- 501(c)(3) organizations need to be careful about the content they share or retweet

# Polling Question #3

What is your go-to social media platform?

- A. *Instagram*
- B. *LinkedIn*
- C. *TikTok*
- D. *X / Twitter*
- E. *FaceBook*
- F. *Snapchat*
- G. *My Space*
- H. *Leave me Alone*

# Grants Between C3 and C4 Entities

---

- 501(c)(3) may make a grant to the 501(c)(4), with these requirements:
  - Grant must be used exclusively for 501(c)(3) permissible purposes.
  - If any of the grant is used for lobbying, it will count against the 501(c)(3)'s lobbying limits.
  - Do not make grant for general support or fundraising costs (cannot subsidize 501(c)4's general costs).
  - Grants must have an accompanying agreement detailing the conditions of the funding.
    - The agreement should prohibit the 501(c)(4) from using any funds for political activities.
    - If it will be used for lobbying, agreement also needs to limit how much will be spent on direct and/or grassroots lobbying. Without this delineation, if the 501(c)(4) uses any of the grant to lobby, the entire grant will count against the 501(c)(3)'s grassroots lobbying limits.
  - Periodic reporting back to the 501(c)(3) so it can ensure the grant is being used for the intended purpose.



# Loans Between C3 and C4 Entities

---

## A 501(c)(3) may loan funds to a 501(c)(4)

- Unlike grant funds, a 501(c)(4) may use a 501(c)(3) loan for general support or fundraising and its use does not count against the 501(c)(3)'s lobbying limits.
- 501(c)(3) should not loan funds to a 501(c)(4) if the 501(c)(4) plans to use the funds for partisan electoral activities or if other factors and circumstances would tend to show that the money will be used for a non-501(c)(3) purpose.
- The loan should have an accompanying loan agreement that demonstrates that the loan is made for a definite term, at a market rate of interest, and with adequate collateral from the 501(c)(4).

## A 501(c)(4) may loan funds to a 501(c)(3)

- Little to no restrictions on the money.
- A 501(c)(4) can pay for any or all of a 501(c)(3)'s lobbying, research, or nonpartisan electoral activities.

# Lobbying vs. Political Expenditures

---

## Lobbying = attempting to influence legislation

- Legislation includes action by Congress, any state legislature, any local council, or similar governing body, with respect to acts, bills, resolutions, or similar items (such as legislative confirmation of appointive office), or by the public in referendum, ballot initiative, constitutional amendment, or similar procedure. It does not include actions by executive, judicial, or administrative bodies.
- An organization will be regarded as attempting to influence legislation if it contacts, or urges the public to contact, members or employees of a legislative body for the purpose of proposing, supporting, or opposing legislation, or if the organization advocates the adoption or rejection of legislation.
- Organizations may, however, involve themselves in issues of public policy without the activity being considered as lobbying. For example, organizations may conduct educational meetings, prepare and distribute educational materials, or otherwise consider public policy issues in an educational manner without jeopardizing their tax-exempt status.

# Lobbying vs. Political Expenditures

---

Political campaign activities = directly or indirectly participating in, or intervening in, a political campaign on behalf of or in opposition to any candidate for public office

- 501(c)(3) organizations are absolutely prohibited from intervening in a political campaign for or against any candidate for an elective public office. If a charity does intervene in a political campaigning, it will lose both its tax-exempt status and its eligibility to receive tax-deductible charitable contributions.
- Examples include:
  - Endorsing or rating political candidates on an organization's issues
  - Making political campaign contributions
  - Publishing voter guides expressing support for or against particular candidates
  - Seeking to persuade voters to vote for or against particular candidates
  - Taking other steps designed to favor one candidate over another
- Note: General voter education activities carried out in a nonpartisan manner are not political campaign expenses. Bipartisan “get out the vote” campaigns are not political campaign expenses.



# Tips for Streamlining and Complying

---

- Use Accounting System that Handles Multi-Entity Environment (e.g. Sage Intacct)
  - Reduces redundant entries in 2 separate systems
  - Allows for reporting on individual or multiple entities together
  - Streamlines tracking of due to/due from balances
- Use Consistent, Documented Methodologies
  - Timesheets vs. Weekly or Monthly Time Estimates
  - Overhead Allocation Driven by Salaries vs. Set Percentage
  - Fringe Allocation of Actual Benefits vs. Set Percentage
  - Clear all of the above methodologies with the attorney



# Tips for Streamlining and Complying

---

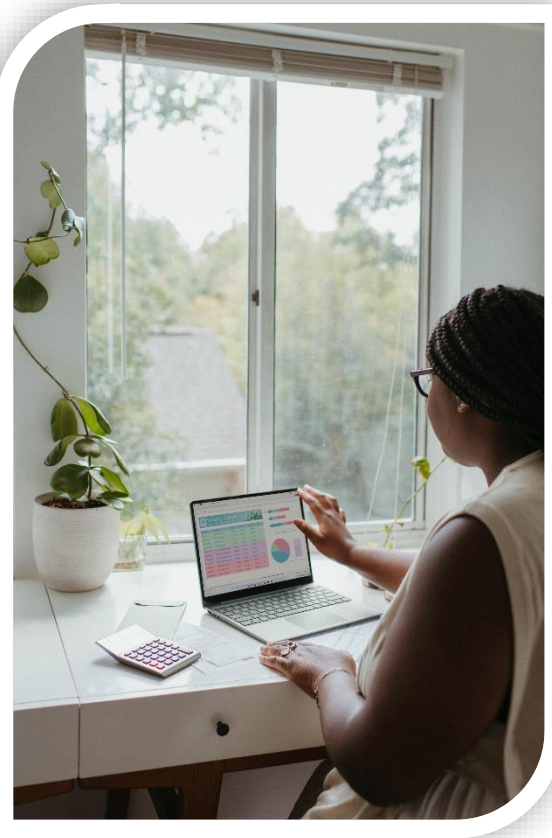
- Run all Cost Sharing Activity in the General Ledger (avoid side tracking in Google Sheets 😊)
  - Ensures accuracy, compliance and consistency
  - Yields streamlined monthly due to/due from transfer, to prevent cash flow issues
- Tag Lobbying and Political Activity Directly in Accounting System
  - Streamlines 990 prep
  - Allows you to monitor lobbying and political spend on an ongoing basis

# Polling Question #4

Is your multi-entity tracking currently automated?

- A. *Yes, pretty much*
- B. *No, but getting there*
- C. *It's all manual*
- D. *N/A or Other*

# 501(c)(3) Lobbying Limits



- Lobbying cannot constitute a “substantial” part of the C3’s activities.
  - “insubstantial amount” is not clearly defined by the IRS
  - This is a qualitative measurement using facts and circumstances of each situation
- 501(h) Election
  - 501(h) elections provides quantitative lobbying limits, may spend about 20% of funds on lobbying
  - Provides a distinction between “direct” and “grassroots” lobbying
  - Direct = communication with a legislator about the specific legislation (expressing a view)
  - Grassroots = communication with the public about specific legislation (expressing a view)
  - If the organization has “excess lobbying expenditures” they may be required to pay a tax on the excess.
  - Cumulative “excess lobbying” may cause revocation of exemption.
- For most mid-sized 501(c)(3)s doing lobbying, we generally recommend they make the 501(h) election. Cap is \$1M in lobbying, so larger organizations may not want to elect.

# Polling Question #5

Does your 501(c)3 currently do lobbying?

- A. *Yes*
- B. *No*
- C. *N/A*

# 501(c)(4) Lobbying & Political Activity

---

- No lobbying limits, as long as such activities are in furtherance of the organization's social welfare purposes
- Political activity is allowed, but limited (cannot be primary activity)
  - Controversy about IRS not giving clear guidance on “primary” (40%/45%/49%/51%?)
- Because corporations can not deduct lobbying expenses as business expenses:
  - The organization must notify the members of the percentage of dues that are utilized for the purpose of lobbying; OR
  - The organization will be subject to the proxy tax



# 501(c)(4) Political Activity – How Much is Too Much?

- Currently, less than 50% of activity as political may be OK
- No clear guidance on how this is measured – expenditures, time, or other methods?
- If based on expenditures, should we use program expenditures or overall expenditures?
- Is a single year over 50% political activity enough to challenge exemption or is it measured over time?
- Work with legal counsel to establish your organization's safe-zone



# Case Study PLR 202247012: 501(c)(4) Revocation for Political Activity

---

- Organization had engaged in mix of campaign contributions and spending on advertisements.
- **Revoked** for excessive political campaign activity—
  - Cites Contracting Plumbers and Better Business Bureau (“substantial nonexempt purpose”).
  - Based on cases cited, IRS appears to have been asserting some threshold below 40% as being “more than insubstantial.”
  - Taxpayer made political campaign contributions. Taxpayer counts only these amounts as “campaign intervention” and contends that its payments for advertisements do not constitute political campaign spending. IRS asserted that the taxpayer engaged “almost entirely in activities that constitute political campaign intervention.” Contended that advertisements constituted political campaign spending.



# Lobbying – Pay Attention to Definitions / Layers of Regulation

---

- Lobbying Disclosure Act (LDA) – Federal definition of lobbying.
- State lobbying disclosure acts – Often based on the federal LDA, but not perfect alignment.
- Local jurisdictions often have their own lobbying rules.
- Federal tax definitions of lobbying
- Different underlying policy rationales
  - LDA: Goal of transparency
  - Federal tax definitions: there should be no tax subsidy for lobbying the government.

# 990 Schedule C: Political Campaign and Lobbying Activities

SCHEDULE C  
(Form 990)

## Political Campaign and Lobbying Activities

OMB No. 1545-0047

2023

For Organizations Exempt From Income Tax Under Section 501(c) and Section 527

Complete if the organization is described below. Attach to Form 990 or Form 990-EZ.  
Go to [www.irs.gov/Form990](http://www.irs.gov/Form990) for instructions and the latest information.

Open to Public Inspection

Department of the Treasury  
Internal Revenue Service

If the organization answered "Yes" on Form 990, Part IV, line 3, or Form 990-EZ, Part V, line 46 (Political Campaign Activities), then:

- Section 501(c)(3) organizations: Complete Parts I-A and B. Do not complete Part I-C.
- Section 501(c) (other than section 501(c)(3)) organizations: Complete Parts I-A and C below. Do not complete Part I-B.
- Section 527 organizations: Complete Part I-A only.

If the organization answered "Yes" on Form 990, Part IV, line 4, or Form 990-EZ, Part VI, line 47 (Lobbying Activities), then:

- Section 501(c)(3) organizations that have filed Form 5768 (election under section 501(h)): Complete Part II-A. Do not complete Part II-B.
- Section 501(c)(3) organizations that have NOT filed Form 5768 (election under section 501(h)): Complete Part II-B. Do not complete Part II-A.

If the organization answered "Yes" on Form 990, Part IV, line 5 (Proxy Tax) (see separate instructions) or Form 990-EZ, Part V, line 35c (Proxy Tax) (see separate instructions), then:

- Section 501(c)(4), (5), or (6) organizations: Complete Part III.

Name of organization	Employer identification number
----------------------	--------------------------------

### Part I-A Complete if the organization is exempt under section 501(c) or is a section 527 organization.

- Provide a description of the organization's direct and indirect political campaign activities in Part IV. See instructions for definition of "political campaign activities."
- Political campaign activity expenditures. See instructions . . . . . \$
- Volunteer hours for political campaign activities. See instructions . . . . .

### Part I-B Complete if the organization is exempt under section 501(c)(3).

- Enter the amount of any excise tax incurred by the organization under section 4955 . . . . . \$
- Enter the amount of any excise tax incurred by organization managers under section 4955 . . . . . \$
- If the organization incurred a section 4955 tax, did it file Form 4720 for this year? . . . . .  Yes  No
- Was a correction made? . . . . .  Yes  No
- If "Yes," describe in Part IV.

### Part I-C Complete if the organization is exempt under section 501(c), except section 501(c)(3).

- Enter the amount directly expended by the filing organization for section 527 exempt function activities . . . . . \$
- Enter the amount of the filing organization's funds contributed to other organizations for section 527 exempt function activities . . . . . \$
- Total exempt function expenditures. Add lines 1 and 2. Enter here and on Form 1120-POL, line 17b . . . . . \$
- Did the filing organization file Form 1120-POL for this year? . . . . .  Yes  No
- Enter the names, addresses, and employer identification number (EIN) of all section 527 political organizations to which the filing organization made payments. For each organization listed, enter the amount paid from the filing organization's funds. Also enter the amount of political contributions received that were promptly and directly delivered to a separate political organization, such as a separate segregated fund or a political action committee (PAC). If additional space is needed, provide information in Part IV.

Schedule C (Form 990) 2023

Page 2

### Part II-A Complete if the organization is exempt under section 501(c)(3) and filed Form 5768 (election under section 501(h)).

- A** Check  if the filing organization belongs to an affiliated group (and list in Part IV each affiliated group member's name, address, EIN, expenses, and share of excess lobbying expenditures).
- B** Check  if the filing organization checked box A and "limited control" provisions apply.

Limits on Lobbying Expenditures (The term "expenditures" means amounts paid or incurred.)		(a) Filing organization's totals	(b) Affiliated group totals												
<b>1a</b>	Total lobbying expenditures to influence public opinion (grassroots lobbying) . . . . .														
<b>b</b>	Total lobbying expenditures to influence a legislative body (direct lobbying) . . . . .														
<b>c</b>	Total lobbying expenditures (add lines 1a and 1b) . . . . .														
<b>d</b>	Other exempt purpose expenditures . . . . .														
<b>e</b>	Total exempt purpose expenditures (add lines 1c and 1d) . . . . .														
<b>f</b>	Lobbying nontaxable amount. Enter the amount from the following table in both columns.														
<table border="1"> <thead> <tr> <th>If the amount on line 1e, column (a) or (b) is:</th> <th>The lobbying nontaxable amount is:</th> </tr> </thead> <tbody> <tr> <td>not over \$500,000,</td> <td>20% of the amount on line 1e.</td> </tr> <tr> <td>over \$500,000 but not over \$1,000,000,</td> <td>\$100,000 plus 15% of the excess over \$500,000.</td> </tr> <tr> <td>over \$1,000,000 but not over \$1,500,000,</td> <td>\$175,000 plus 10% of the excess over \$1,000,000.</td> </tr> <tr> <td>over \$1,500,000 but not over \$17,000,000,</td> <td>\$225,000 plus 5% of the excess over \$1,500,000.</td> </tr> <tr> <td>over \$17,000,000,</td> <td>\$1,000,000.</td> </tr> </tbody> </table>		If the amount on line 1e, column (a) or (b) is:	The lobbying nontaxable amount is:	not over \$500,000,	20% of the amount on line 1e.	over \$500,000 but not over \$1,000,000,	\$100,000 plus 15% of the excess over \$500,000.	over \$1,000,000 but not over \$1,500,000,	\$175,000 plus 10% of the excess over \$1,000,000.	over \$1,500,000 but not over \$17,000,000,	\$225,000 plus 5% of the excess over \$1,500,000.	over \$17,000,000,	\$1,000,000.		
If the amount on line 1e, column (a) or (b) is:	The lobbying nontaxable amount is:														
not over \$500,000,	20% of the amount on line 1e.														
over \$500,000 but not over \$1,000,000,	\$100,000 plus 15% of the excess over \$500,000.														
over \$1,000,000 but not over \$1,500,000,	\$175,000 plus 10% of the excess over \$1,000,000.														
over \$1,500,000 but not over \$17,000,000,	\$225,000 plus 5% of the excess over \$1,500,000.														
over \$17,000,000,	\$1,000,000.														
<b>g</b>	Grassroots nontaxable amount (enter 25% of line 1f) . . . . .														
<b>h</b>	Subtract line 1g from line 1a. If zero or less, enter -0- . . . . .														
<b>i</b>	Subtract line 1f from line 1c. If zero or less, enter -0- . . . . .														
<b>j</b>	If there is an amount other than zero on either line 1h or line 1i, did the organization file Form 4720 reporting section 4911 tax for this year? . . . . . <input type="checkbox"/> Yes <input type="checkbox"/> No														

# Related 501(c)(3) & 501(c)(4) Organizations

---

- “Related” for tax purposes = 1) greater than 50% overlapping board members, or 2) the power to appoint or remove more than 50% of the other’s board
- Different rules for audit consolidation, but generally “common control”
  - Will still need separate 990s for each entity (cannot consolidate 990s)
- Important to keep separate records / activities for each entity
  - 501(c)(3) must be able to demonstrate that it is not subsidizing the partisan electoral work of the affiliated 501(c)(4)

# 990 Schedule R: Related Organizations

**Part II Identification of Related Tax-Exempt Organizations.** Complete if the organization answered “Yes” on Form 990, Part IV, line 34, because it had one or more related tax-exempt organizations during the tax year.

(a) Name, address, and EIN of related organization	(b) Primary activity	(c) Legal domicile (state or foreign country)	(d) Exempt Code section	(e) Public charity status (if section 501(c)(3))	(f) Direct controlling entity	(g) Section 512(b)(13) controlled entity?	
						Yes	No
(1)							
(2)							
(3)							

- Part V reports transactions between related entities
- If receiving consolidated financial statements, will need to detail intercompany eliminations on this schedule (see next slide)

# 990 Schedule R: Related Organizations

**Part V Transactions With Related Organizations.** Complete if the organization answered "Yes" on Form 990, Part IV, line 34, 35b, or 36.

**Note:** Complete line 1 if any entity is listed in Parts II, III, or IV of this schedule.

	Yes	No
<b>1</b> During the tax year, did the organization engage in any of the following transactions with one or more related organizations listed in Parts II-IV?		
<b>a</b> Receipt of (i) interest, (ii) annuities, (iii) royalties, or (iv) rent from a controlled entity . . . . .	<b>1a</b>	
<b>b</b> Gift, grant, or capital contribution to related organization(s) . . . . .	<b>1b</b>	
<b>c</b> Gift, grant, or capital contribution from related organization(s) . . . . .	<b>1c</b>	
<b>d</b> Loans or loan guarantees to or for related organization(s) . . . . .	<b>1d</b>	
<b>e</b> Loans or loan guarantees by related organization(s) . . . . .	<b>1e</b>	
<b>f</b> Dividends from related organization(s) . . . . .	<b>1f</b>	
<b>g</b> Sale of assets to related organization(s) . . . . .	<b>1g</b>	
<b>h</b> Purchase of assets from related organization(s) . . . . .	<b>1h</b>	
<b>i</b> Exchange of assets with related organization(s) . . . . .	<b>1i</b>	
<b>j</b> Lease of facilities, equipment, or other assets to related organization(s) . . . . .	<b>1j</b>	
<b>k</b> Lease of facilities, equipment, or other assets from related organization(s) . . . . .	<b>1k</b>	
<b>l</b> Performance of services or membership or fundraising solicitations for related organization(s) . . . . .	<b>1l</b>	
<b>m</b> Performance of services or membership or fundraising solicitations by related organization(s) . . . . .	<b>1m</b>	
<b>n</b> Sharing of facilities, equipment, mailing lists, or other assets with related organization(s) . . . . .	<b>1n</b>	
<b>o</b> Sharing of paid employees with related organization(s) . . . . .	<b>1o</b>	
<b>p</b> Reimbursement paid to related organization(s) for expenses . . . . .	<b>1p</b>	
<b>q</b> Reimbursement paid by related organization(s) for expenses . . . . .	<b>1q</b>	
<b>r</b> Other transfer of cash or property to related organization(s) . . . . .	<b>1r</b>	
<b>s</b> Other transfer of cash or property from related organization(s) . . . . .	<b>1s</b>	

**2** If the answer to any of the above is "Yes," see the instructions for information on who must complete this line, including covered relationships and transaction thresholds.

	(a) Name of related organization	(b) Transaction type (a-s)	(c) Amount involved	(d) Method of determining amount involved
(1)				
(2)				

# Public Support Test – 501(c)(3) Only

---



- Provides reason for the organization’s public charity status (why it is not a private foundation)
- We most commonly work with 509(a)(1) and 509(a)(2) organizations
  - 509(a)(1) = contribution based organizations
  - 509(a)(2) = fee based organizations
- 509(a)(3) organizations—organized or formed as supporting organizations to one or more publicly supported organizations described in Sections 509(a)(1) or Section 509(a)(2). Three types of 509(a)(3) organizations

# Public Support Test - Continued

---

- Different test depending on whether you are a 509(a)(1) or 509(a)(2)
- Five-year advance ruling period-the support ratio is not disclosed the first five years
- Test involves determining a fraction, the numerator being the amount deemed to be support from the public, the denominator being total support; period of time is current year and four preceding years
- Objective passing ratio is 33.33%
- Features of 509(a)(1) test:
  - Amounts from a single contributor exceeding 2% of total support over five-year period is excluded from public support
  - Government money and money from publicly supported charities count in full (not subject to the 2% exclusion)
  - “Unusual” grants
  - “Facts and circumstances” test

# Public Support Test - Continued

---

- 509(a)(2) features:
  - Amounts from disqualified persons and amounts over 1% of support in each year are excluded from public support
  - There is also an investment income test
- If you fail the test two years in a row, you become a private foundation. A private foundation is a very different type of organization from a public charity, an organization usually wants to avoid that; if they fail, there is a five-year waiting period before they can become a public charity again.
- Situations where public support test is usually an issue:
  - Organization in its first five years
  - Organization that relies on only a few donors
  - Organizations that have been dormant for a few years
  - Organizations getting support from a related entity



# Questions?

*Contact Us*

---



**CPAs & ADVISORS**



Serving clients across the globe  
301-951-9090 | [www.grfcpa.com](http://www.grfcpa.com)



**Dick Locastro, CPA, JD**  
Partner and Director, Nonprofit Tax

[rlocastro@grfcpa.com](mailto:rlocastro@grfcpa.com)



**Elinor Litwack, CPA**  
Partner, Outsourced Accounting &  
Advisory Services

[elitwack@grfcpa.com](mailto:elitwack@grfcpa.com)



# Disclaimer

---

*This webinar is not intended as, and should not be taken as, financial, tax, accounting, legal, consulting or any other type of advice. While we use reasonable efforts to furnish accurate and up-to-date information, we do not warrant that any information contained in or made available in this webinar is accurate, complete, reliable, current or error-free. We assume no liability or responsibility for any errors or omissions in the content of this webinar.*

*The use of the information provided in this webinar does not establish any contractual or other form of client engagement between GRF CPAs & Advisors and the reader or user. Any U.S. federal tax advice contained in this webinar is not intended to be used for the purpose of avoiding penalties under U.S. federal tax law. Readers and users of this webinar information are advised not to act upon this information without seeking the service of a professional accountant.*