KRIEG DEVAULT

Insights

Nonprofit Political Activity in an Election Year: What Organizations Need to Know

May 4, 2026

By: Kendall A. Schnurpel

As election activity increases, nonprofit organizations should revisit the federal tax rules governing political campaign intervention, lobbying, voter education, and issue advocacy. Those rules vary significantly based on an organization's tax?exempt classification and the type of activity involved. This alert provides a practical overview of the federal tax framework most relevant during an election year.

Overview of the Federal Rules

The Internal Revenue Code provides tax?exempt status to many types of organizations. However, various policy considerations balance the benefits of such status against limitations on the operational activities of the organization. One of these relates to involvement in political activities. While some issues advocacy is permitted for most types of exempt organizations, the exemption from paying taxes does not mean that all political activity is permitted. The applicable limits depend on:

- the organization's exemption category;
- whether the activity relates to candidates, legislation, ballot measures, or public policy issues; and
- the manner, timing, and context of the politically oriented communications or expenditures.

Organizations exempt under Section 501(c)(3) face the strictest rules. Other exempt organizations, including those described in Sections 501(c)(4), 501(c)(5), and 501(c)(6), have more flexibility, but political activity remains regulated. Failure to comply can trigger tax, reporting, disclosure, and campaign finance consequences.

Federal, state, and local campaign finance laws operate independently from the tax rules and may restrict or prohibit activities that are otherwise permissible for tax?exempt purposes. These laws may regulate contributions, coordinated communications, independent expenditures, disclaimers, reporting, registration, and PAC activity. While beyond the scope of this alert, organizations should monitor compliance with these restrictions as well.

501(c)(3) Organizations: Absolute Prohibition on Political Campaign Activity

Organizations exempt under Section 501(c)(3)—including charities, churches, schools, hospitals, and private foundations—are absolutely prohibited from participating or intervening in any political campaign for or against a candidate for public office. This prohibition applies to federal, state, and local elections and is not subject to a materiality threshold.

The IRS interprets political campaign intervention broadly. Activities that commonly raise concerns include:

- endorsing or opposing candidates;
- making contributions to candidates, political parties, PACs, or campaign committees;
- allowing organizational resources (such as facilities, mailing lists, staff time, websites, or social media accounts) to be used for campaign purposes;
- distributing biased voter guides or candidate questionnaires;
- rating or ranking candidates;
- inviting only one candidate to speak in a campaign capacity; or
- making statements that, when viewed in context, favor one candidate over another.

The IRS applies a facts?and?circumstances analysis. Avoiding express words such as “vote for” or “defeat” does not eliminate risk if the communication, in context, functions as candidate support or opposition—particularly when it identifies a candidate close to an election or contrasts a candidate’s position with the organization’s views.

Violations may result in excise taxes and, in serious cases, revocation of tax?exempt status.

Activities 501(c)(3) Organizations May Still Conduct
The campaign intervention prohibition does not bar all public engagement. A 501(c)(3) organization may engage in properly structured, nonpartisan activities, including:

- nonpartisan voter registration and get?out?the?vote efforts;
- nonpartisan candidate forums that invite all viable candidates on equal terms;
- unbiased voter education materials;
- issue advocacy that does not favor or oppose candidates; and
- lobbying within applicable limits.

While an organization can engage in vigorous issues advocacy that promotes its missional objectives, political neutrality is critical. Candidate forums should use neutral moderators and questions and avoid editorial commentary. Voter guides should cover a broad range of issues without ranking candidates or comparing them to organizational positions. Issue advocacy requires particular care when conducted close to an election or when closely associated with a specific candidate.

Lobbying vs. Political Campaign Intervention
For 501(c)(3) organizations, lobbying and political campaign intervention are distinct concepts:

- Lobbying involves attempts to influence legislation.
- Political campaign intervention involves support for or opposition to candidates.

A 501(c)(3) public charity may engage in limited lobbying—either under the “no substantial part” test or, if it has affirmatively opted into the Section 501(h) expenditure test. Private foundations are subject to stricter lobbying rules. By contrast to public charities, private foundations should not engage in any amount of political campaign intervention.

501(c)(4) Organizations: Political Activity Must Not Be the Primary Activity
Section 501(c)(4) social welfare organizations may engage in lobbying and issue advocacy related to their social welfare purpose. They may also engage in some political campaign activity, but such activity cannot be their primary activity. This policy recognizes that candidate intervention does not itself promote social welfare.

Political expenditures may also be subject to tax under Section 527(f). In practice, (c)(4) organizations should carefully track staff time, expenses, communications, grants, and fundraising materials to confirm that political campaign activity remains secondary to social welfare activities.

501(c)(5) and 501(c)(6) Organizations
Labor, agricultural, trade association, chamber of commerce, and business league organizations exempt under Sections 501(c)(5) and 501(c)(6) generally may engage in lobbying related to their exempt purposes and in some political campaign activity without automatically jeopardizing exemption, provided political activity does not become their primary activity.

These organizations should also consider member notice and proxy tax rules. Certain organizations that incur nondeductible lobbying or political expenditures must either notify members of the nondeductible portion of dues or pay a proxy tax—an obligation that is frequently overlooked.

Practical Considerations for Online Activity and Organizational Resources
Election?year compliance issues often arise from informal or low?cost actions—reposting a candidate's message, hosting a candidate at an event, permitting use of mailing lists, or allowing staff to engage in political activity on paid time. These actions may be treated as organizational activity even if no direct contribution is made.

Officers, directors, employees, and volunteers retain their individual political rights, but they should exercise those rights in their personal capacity, on their own time, without using organizational resources, and without implying organizational support.

What Organizations Should Do Now

- Confirm the organization's tax classification and applicable political activity limits.
- Adopt or update written policies addressing endorsements, social media, use of facilities, staff activity, voter education, and candidate appearances.
- Train board members, officers, employees, and communications staff on the distinction between candidate activity, lobbying, and nonpartisan engagement.
- Review voter education, candidate forum, ballot measure, and advocacy materials before distribution.
- Track expenses, staff time, and organizational resources devoted to lobbying or political activity.
- For 501(c)(4), (c)(5), and (c)(6) organizations, evaluate Section 527(f), Schedule C, proxy tax, and member notice obligations.
- Review applicable campaign finance laws before engaging in political expenditures or candidate?related communications.

How We Can Help
Krieg DeVault attorneys regularly advise nonprofit organizations, trade associations, business leagues, and social welfare organizations on political activity compliance, lobbying rules, governance policies, Form 990 reporting, and campaign finance considerations. Organizations with questions regarding election?year communications or political activity are encouraged to contact Kendall A. Schnurpel or their regular Krieg

DeVault attorney.

Disclaimer: The contents of this article should not be construed as legal advice or a legal opinion on any specific facts or circumstances. The contents are intended for general informational purposes only, and you are urged to consult with counsel concerning your situation and specific legal questions you may have.