

FACTS ABOUT THE PROPOSED IRS RULES FOR 501c4s

FACT: Most 501c4 entities were formed to engage in citizen education and grassroots lobbying.

- **The proposed IRS definition of ‘candidate related political activities’ sweeps into the definition essentially *everything* that a 501c4 organization normally does:**
 - **Grassroots lobbying**
 - **Candidate forums**
 - **Candidate debates**
 - **Voter registration**
 - **Voter guides**
 - **Issue advocacy**

FACT: The effect of an ‘activity’ being deemed a ‘candidate related political activity’ could eliminate the purpose of most 501c4 organizations, because all such activities would require:

- The group must track and record the costs of its ‘candidate-related political activity’
- The group must develop a methodology (unspecified in the IRS regulations) for calculating and reporting the value of volunteer activities spent on ‘candidate-related political activity’
- The group must report to the IRS on its Form 990 total expenditures for all candidate-related political activities – including the value of its volunteer ‘candidate-related’ political activities
- Expenditures by a 501c4 group for candidate related political activities may be subject to *taxation*
- Candidate related political activities do not count toward the group’s primary purpose – and thus, the organization must spend a majority of its funds and ‘volunteer’ time on NON-candidate related political activities, in order to preserve its c4 tax exempt status.

FACT: 501c4 groups would be left with being able to do very little that is *not* a candidate-related political activity!

Specific scenarios that would impact c4 groups under the proposed IRS rules:

- **Voter Registration *any* time, any place is a ‘candidate-related political activity’, *even* if no candidate is mentioned.**

Scenario: A citizens group sets up a table where volunteers register voters during the county fair. If the group is a 501(c)(4), that has to be counted as a *candidate-related political activity*, even if there is no candidate literature and no campaign activity.

If the group is a labor union, it is *not* a candidate-related political activity.

If the group is the local chamber of commerce, it is *not* a candidate-related political activity.

If the group is a local church, it is *not* a candidate-related political activity.

If the group is a local radio station, it is *not* a candidate-related political activity.

- **A candidate debate or a candidate forum – even if all candidates are invited – is deemed to be a ‘candidate-related political activity’.**

Scenario: A citizens group invites all the candidates for the city council to a candidate debate or forum – a “meet the candidates” event, free and open to the public. If the group is a 501(c)(4), the costs of the event- and the value of the ‘volunteer time’ spent in putting the event on, must be counted as a *candidate-related political activity*.

If the group is a labor union, it is *not* a candidate-related political activity.

If the group is the local chamber of commerce, it is *not* a candidate-related political activity.

If the group is a local church, it is *not* a candidate-related political activity.

If the group is a local radio station, it is *not* a candidate-related political activity.

- **An event at which any candidate for office appears within 30 days of a primary or 60 days of a general election is automatically deemed to be a ‘candidate-related political activity’.**

Scenario: A local citizens group is lobbying against a proposed highway that would be routed through their neighborhood. They invite the Chairman of the state senate’s transportation committee to speak to their group – it is October and the vote on the legislation is expected in the next week. The state senator is not a candidate in the area where the meeting takes place – but because he is running for reelection, he is a candidate for office and the meeting, if hosted by a 501(c)(4) organization, is deemed to be a ‘candidate-related’ political activity.

If the group hosting the meeting is the local of a labor union, it is *not* a candidate-related political activity.

If the group is the local chamber of commerce, it is *not* a candidate-related political activity.

If the group is a local church, it is *not* a candidate-related political activity.

If the group is a local radio station, it is *not* a candidate-related political activity.

- **A voter guide is a ‘candidate-related political activity’.**

Scenario: A group of parents form a citizens group concerned about the local schools. They organize themselves as a 501c4 organization and become actively engaged in efforts to influence the school board to improve the curriculum in the local elementary schools. The school board elections are next month. The group contacts all candidates for the school board to answer a questionnaire regarding the candidates’ knowledge of and positions on the curriculum proposals; the group prepares and distributes a voter guide containing the candidates’ answers to the questionnaire. The expenses – and the value of the volunteer time – spent in preparing and distributing the voter guide is deemed to be a ‘*candidate-related political activity*’.

If the group is *not* a group of parents, but is the local teachers’ organization, because that is a labor union, the exact same activities are *not* “candidate-related political activities”.

If the group is the local chamber of commerce, it is a trade association and the same activities are *not* candidate-related political activities.

If the group is a local church, it is *not* candidate-related political activity.

If the group is a local radio station, it is *not* candidate-related political activity.

- **Publication of the voting records of incumbent officeholders is a ‘candidate-related political activity’.**

Scenario: A grassroots group that was formed to fight Obamacare has been collecting stories of families and individuals who have lost their health insurance coverage due to Obamacare. The group has compiled the voting records of the members of the congressional delegation identifying every vote each member of Congress has cast either for or against Obamacare, repeal of Obamacare, defunding Obamacare, etc. The group posts the voting records on its website. The group must remove the voting record information from its website 30 days before the primary....and if it re-posts the voting record after the primary, it must again be removed 60 days before the general election. Failure to remove the voting record converts the costs of developing and posting the voting record, including costs of the website, to ‘candidate-related political activity’ and cannot be counted toward the group’s primary purpose.

If the group is a labor union, it is *not* candidate-related political activity.

If the group is the local chamber of commerce, it is *not* candidate-related political activity.

If the group is a local church, it is *not* candidate-related political activity.

If the group is a local radio station, it is *not* candidate-related political activity.

Scenario #2: A national grassroots organization is a 501(c)(4) that is devoted to protecting citizens Second Amendment rights. The group's legislative arm publishes a daily report to its 4 million members about new developments in Congress and state legislatures, as well as in state and federal courts, regarding gun rights and attacks on the Second Amendment. One such report describes a lawsuit brought by a local business group to bar workers from having guns in their cars or trucks in the employers' parking lots. A state court judge in Illinois rules in favor of the employees' right to carry concealed weapons. The ruling made national news. That report containing the name of the state court judge and all news reports about the case and the ruling must be removed from the organization's website 30 days before any primary election *anywhere* in America and/or 60 days before a general election, not just in Illinois but nationwide. Failure to do so converts the costs of the report to a 'candidate-related political activity'.

If the group is a labor union, it is *not* a candidate-related political activity.

If the group is the local chamber of commerce, attacking the judge and his ruling, it is *not* a candidate-related political activity.

If the group is a local church, it is *not* a candidate-related political activity.

If the group is a local radio station, posting news reports about the judge and the ruling, it is *not* a candidate-related political activity

- **A public statement by a leader, officer or volunteer speaking on behalf of a 501c4 organization published in the news media, is a candidate-related political activity, if the statement references or depicts any public official within 30 days of a primary or 60 days of a general election.**

Scenario: In December, 2015, President Obama nominates William Ayers to the U.S. Supreme Court. The Executive Director of a national group dedicated to the nomination and confirmation of rule-of-law Supreme Court justices is asked her opinion of the President's nominee. It is within thirty days of the Iowa caucuses. Her responses, quoted in USA Today, are treated as a candidate-related political expenditure by the organization and must be reported to the IRS on the group's Form 990.

If the group is a labor union, its President's comments on the nomination are *not* a candidate-related political activity.

If the group is the US Chamber of commerce, its President's comments are *not* a candidate-related political activity.

If the group is a local church, its minister's comments are *not* a candidate-related political activity.

USA Today, which conducted and published the interview about the nomination does *not* have to treat the expenditure as a candidate-related political activity and

is able to deduct the costs of the news report as an ordinary and necessary business expense.

- **Any communications by a 501(c)(4) that can reach 500 people and which reference any ‘public official’ or political party official or candidate is included in the definition of ‘communication’: radio, tv, written, newspaper, internet, phones and oral**

Scenario: The President of the Sierra Club, a 501(c)(4) organization, makes a speech to a national environmental summit in January, 2016, praising Vice-President Joe Biden for his opposition to the Keystone Pipeline; Biden is a candidate for the Democratic presidential nomination in 2016. There are 600 people attending the environmental summit being held in Santiago, Chile. The ‘oral communication’ is a ‘candidate-related political activity’, the costs of which must be reported to the IRS on the Sierra Club’s Form 990 and subject to taxation. USA Today covers the speech; the costs of USA Today’s coverage of the speech is attributable to the Sierra Club as a ‘candidate-related political activity’.

If the Pipefitters Union attacks Vice-President Biden for opposing the Keystone Pipeline, because it is a labor union, its President’s comments on the issue are *not* a candidate-related political activity.

If the US Chamber of Commerce President gives a speech opposing Vice-President Biden’s opposition to the Keystone Pipeline, its President’s comments are *not* a candidate-related political activity.

If the President of the Sierra Club Foundation, a 501c3 organization, gives the exact same speech, his comments are *not* a candidate-related political activity.

USA Today, which reported the story, does *not* have to treat the expenditure as a candidate-related political activity and is able to deduct the costs of the news report as an ordinary and necessary business expense.

Scenario: The farm bill is scheduled for a vote on the Senate floor in October, 2014. An organization that was formed for the purpose of modernizing the agricultural subsidies formula organizes a grassroots lobbying effort to call Senators urging them to support the changes advocated by the organization. The group sends emails and conducts phone calls to patch-through its 1,000 members to lobby their Senators. All costs of the grassroots lobbying effort are deemed to be ‘candidate-related political activities’, subject to reporting and taxation.

If the group is a labor union, its grassroots lobbying against the modernization provisions are *not* candidate-related political activity.

If the group is a trade association of farmers who don’t want to change the formula, their lobbying efforts are *not* candidate-related political activity.

If the group is an agricultural foundation that publishes a research paper describing the cost savings from modernizing the agricultural subsidies formula, their expenditures are *not* a candidate-related political activity.

A media entity covering the fight over the farm bill does not have to treat its coverage as ‘candidate-related political activity’.

- **Any ‘express advocacy’ communications are considered candidate-related political activity and ‘express advocacy’ includes magic words *and* subjective tests based on whether the communication can be ‘perceived’ to be ‘express advocacy’ of the election or defeat of a candidate. The magic words include support, oppose, elect, defeat, vote for, vote against and reject.**

Scenario: Eagle Forum and its founder, Phyllis Schlafly, have long fought against the Law of the Sea Treaty. A communication in the Phyllis Schlafly newsletter, or on the website of the Eagle Forum, which identifies Senators who are on the fence regarding their votes on the treaty and urges people to call Senator Smith and tell him and other specific Senators to “reject the Law of the Sea Treaty” is considered a candidate-related political activity by Eagle Forum and must be counted against Eagle Forum’s major purpose. A speech by Phyllis Schlafly at CPAC urging the attendees to call these five Senators: Smith, Jones, Wilson, Cunningham and Brown and to tell each of them to ‘reject the Law of the Sea Treaty’ is treated as a candidate-related political activity.

If the Maritime Union President urges its members to call Senators Smith, Jones, Wilson, Cunningham and Brown and to ask them to ‘reject’ the Law of the Sea Treaty, because it is a labor union, it is *not* a candidate-related political activity.

If the group attacking the treaty is a trade association, its President can make the same speech and his comments are *not* candidate-related political activity.

If the group is a think tank which has analyzed the impact of Law of the Sea Treaty on American Sovereignty, a publication posted on its website which describes which Senators hold the keys to ratification or rejection, its comments are *not* candidate-related political activity because it is a 501(c)(3).

A national magazine running an editorial calling on Senators Smith, Jones, Wilson, Cunningham, and Brown to reject the Law of the Sea Treaty does not have to treat its communications as candidate-related political activity

WHAT CAN WE DO ABOUT THESE PROPOSED REGULATIONS??

- **Individual citizens and grassroots leaders MUST submit comments to the IRS before February 27, 2014!! See the instructions for submitting comments on the following page.**

- In those comments, demand public hearings by both Congress and the IRS and ask to testify.
- Tell the IRS that these scenarios are the heart and soul of what grassroots citizens groups do – and are NOT candidate-related political activities.
- Call and write Congress – both House and Senate – and demand they take action to STOP these IRS regulations.

Formal Comments and requests for a public hearing must be received by the IRS on or before February 27, 2014 and should include the name and address of the commenter. Comments may be submitted by mail, hand-delivery or email:

Comments via mail:

Mail submissions to:
CC:PA:LPD:PR (REG-134417-13) Room 5205
Internal Revenue Service
P.O. Box 7604 Ben Franklin Station
Washington, DC 20044.

Comments via hand-delivery:

Submissions may be hand-delivered Monday through Friday between 8 am and 4 pm to:

CC:PA:LPD:PR (REG-134417-13)
Courier's Desk
Internal Revenue Service
1111 Constitution Avenue NW.
Washington, DC

Comments filed via email:

Submissions may be sent electronically via the Federal eRulemaking Portal at <http://www.regulations.gov>

Include this citation: IRS REG-134417-13

That will take you to the comments page where you can enter your comments. Be sure to include your name and address.

Only the outrage of grassroots citizens can stop these draconian regulations from silencing the voices of every citizen! Questions? Contact:

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