

# Optimizing the Use of Non-Charitable Entities

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## Changing the world takes more than just 501(c)(3)s

	501(c)(3) Private Foundation	501(c)(3) Public Charity	Limited Liability Company (LLC)	501(c)(4) Social Welfare Org*	527 Political Org
Purpose	<ul style="list-style-type: none"> <li>Charity, education, religion or science</li> <li>Contributions from limited sources</li> </ul>	<ul style="list-style-type: none"> <li>Charity, education, religion or science</li> </ul>	<ul style="list-style-type: none"> <li>For profit, advocacy, political and charitable activities</li> </ul>	<ul style="list-style-type: none"> <li>Social welfare or advocacy (lobbying)</li> </ul>	<ul style="list-style-type: none"> <li>Political</li> </ul>
Examples	<ul style="list-style-type: none"> <li>Gates Foundation</li> <li>Ford Foundation</li> </ul>	<ul style="list-style-type: none"> <li>Sierra Club Foundation</li> <li>American Red Cross</li> <li>Heritage Foundation</li> </ul>	<ul style="list-style-type: none"> <li>Chan Zuckerberg Initiative</li> <li>Emerson Collective</li> </ul>	<ul style="list-style-type: none"> <li>Sierra Club</li> <li>National Rifle Association</li> <li>Crossroads GPS</li> </ul>	<ul style="list-style-type: none"> <li>Sierra Club Political Committee</li> <li>EMILY's LIST</li> <li>American Crossroads</li> </ul>
Tax Benefits	<ul style="list-style-type: none"> <li>Tax exemption</li> <li>Contributions are deductible</li> <li>Gift tax deduction</li> </ul>	<ul style="list-style-type: none"> <li>Tax exemption</li> <li>Contributions are deductible</li> <li>Gift tax deduction</li> </ul>	<ul style="list-style-type: none"> <li>May deduct certain costs/contribution of services if donated to a c3</li> </ul>	<ul style="list-style-type: none"> <li>Tax exemption</li> <li>Gift tax exemption</li> </ul>	<ul style="list-style-type: none"> <li>Tax exemption</li> <li>Gift tax exemption</li> </ul>
Lobbying	<ul style="list-style-type: none"> <li>None</li> </ul>	<ul style="list-style-type: none"> <li>Limited</li> </ul>	<ul style="list-style-type: none"> <li>Unlimited</li> </ul>	<ul style="list-style-type: none"> <li>Unlimited</li> </ul>	<ul style="list-style-type: none"> <li>Rare (and usually taxable)</li> </ul>
Election-Related Activity	<ul style="list-style-type: none"> <li>Can't support or oppose candidates</li> <li>Nonpartisan activities OK</li> </ul>	<ul style="list-style-type: none"> <li>Can't support or oppose candidates</li> <li>Nonpartisan activities OK</li> </ul>	<ul style="list-style-type: none"> <li>Varies</li> </ul>	<ul style="list-style-type: none"> <li>Partisan activity cannot be primary activity</li> <li>May be taxable</li> </ul>	<ul style="list-style-type: none"> <li>Primary purpose is partisan activity</li> </ul>

\* For these purposes, the rules relating to c4s and c6 trade associations are the same.

# Limited Liability Companies (LLCs)

- **Limited Liability Companies (LLCs) are highly customizable and can be surprisingly tax efficient.**
  - LLCs are not tax-exempt, but they limit liability and can still be a tax efficient component of your giving strategy.
- **LLCs have appealing flexibility.**
  - The governance structure of your LLC is up to you.
  - LLCs may be member-managed or managed by a board, and it may be guided by additional advisory boards.
- **LLCs can be used by c3s for purposes that are related or unrelated to the c3s exempt purposes.**
- **LLCs can also be used for non-c3 purposes to achieve broader programmatic goals (e.g., mission investing, JVs, lobbying/political engagement).**

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## LLCs and tax efficiency

- **LLCs can help you run your charitable entities – and deduct the costs.**
  - If you form an LLC, its employees can perform work for your private foundation or public charity under a resource sharing agreement.
  - The cost of the services provided to a charitable entity, like a private foundation or public charity, are deductible as an in-kind contribution.
- **LLCs can be useful and tax-friendly intermediaries for giving.**
  - An individual or a grantor trust that gives to a public charity or private foundation via an LLC can still deduct their donation even though it was made through the for-profit LLC.

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# LLCs and branding

- **LLCs can help you brand a subset of your charitable/advocacy/political/for-profit activities.**
  - A single-member limited liability company (SMLLC) is generally treated as a branch of its parent for tax purposes, but are respected for state law purposes as separate entities.
    - Contributions to SMLLCs wholly owned by a U.S. tax-exempt organization are treated as tax-exempt and would be deductible if the single member is a c3.
    - But offer liability protection for the sole member.
  - These subsidiary SMLCCs can be a useful tool in branding a particular activity/project and can serve as an interim step to spinning out a separate affiliated organization.

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# Other Uses of LLCs and C Corporations

- **LLCs/C corps provide you with greater flexibility in running non-charitable activities.**
  - If you form an LLC/C corp, its employees can also provide services to a 501(c)(4), assist on political giving, and for-profit investing.
  - The value of the services provided to a charitable entity, like a private foundation or public charity, are deductible as an in-kind contribution.
- **Use as a UBIT blocker and liability shield for for-profit activities.**
  - If a c3 has a wholly owned for-profit subsidiary or a SMLLC (that elects to be taxed as a C corp), the LLC/corporation acts as a liability shield and a UBIT blocker.
  - With the new UBIT siloing rules, if all UBTI-generating activities are placed in a for-profit sub, losses can be used to offset gains, regardless of the trade or business that gave rise to the income and losses.
- **A SMLLC can be also used as a holding company for certain activities (such as international offices and affiliates).**

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