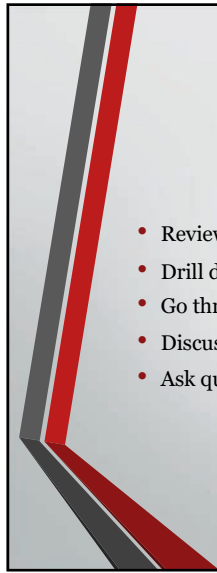


**January 20, 2023**

**JAMES P. JOSEPH**  
Arnold & Porter Kaye Scholer LLP, Washington, DC  
202.942.5355 | James.Joseph@arnoldporter.com

**KATHERINE KARL**  
Caplin & Drysdale, Chartered, Washington, DC  
202.293.5100 | kkarl@capdale.com

1



## **Agenda**

- Review the basics.
- Drill down into the rules of the road.
- Go through some examples and case studies.
- Discuss some tricks of the trade.
- Ask questions as we go along so this can be a dialogue rather than a lecture.

2

2

“I seldom think of politics  
more than 18 hours a day.”

—Lyndon Baines Johnson

3

3

## Types of Tax-Exempt Organizations

- The rules differ based on what type of tax-exempt organizations are involved.
- IRC Section 501(c)(3)
  - Private foundations
  - Public charities
- IRC Section 501(c)(4)
  - Social welfare organizations
- IRC Section 501(c)(6)
  - Trade associations
- IRC Section 527
  - 527s (not PACs)
  - Political action committees (PACs)
  - Independent-expenditure only PACs (SuperPACs)

4

4

## Types of Tax-Exempt Organizations

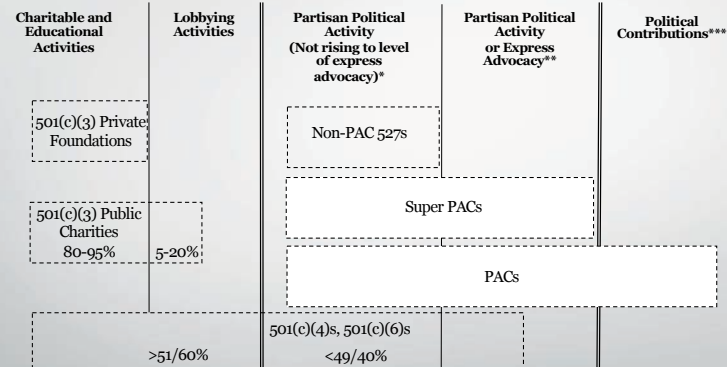
	501(c)(3) Private Foundation	501(c)(3) Public Charity	501(c)(4) Social Welfare Org	527 Political Org
Purpose	<ul style="list-style-type: none"> <li>Charity, education, religion or science</li> <li>Contributions from limited sources</li> </ul>	<ul style="list-style-type: none"> <li>Charity, education, religion or science</li> </ul>	<ul style="list-style-type: none"> <li>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>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 deductible</li> <li>Gift tax deduction</li> </ul>	<ul style="list-style-type: none"> <li>Tax exemption</li> <li>Contributions deductible</li> <li>Gift tax deduction</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>
<b>Election-Related Activity</b>	<ul style="list-style-type: none"> <li>Can't support or oppose candidates</li> <li>Nonpartisan activities OK</li> <li>Can only fund voter registration under very limited circumstances</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>Partisan activity cannot be primary purpose ("primary purpose" test)</li> <li>May be taxable</li> </ul>	<ul style="list-style-type: none"> <li>Primary purpose is partisan activity</li> </ul>

\*Note: 501(c)(4)s and 501(c)(6)s have the same rules for these purposes.

5

5

## IRS Educational, Lobbying and Political Activity Spectrum



\*Political speech regulated by IRS (not FEC).

\*\* Political speech regulated by IRS and FEC.

\*\*\* N.B. For state and local elections, the rules may differ.

6

6

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](https://utcle.org/elibrary)

Title search: Elections and Nonprofit Compliance

Also available as part of the eCourse

[2023 Nonprofit Organizations eConference](#)

First appeared as part of the conference materials for the  
40<sup>th</sup> Annual Nonprofit Organizations Institute session  
"MASTER CLASS: Elections and Nonprofit Compliance"