

Nonprofit Considerations for Donating to Ballot Measures

A nonprofit organization that wishes to provide financial support to a ballot measure campaign must consider both the tax and political reporting implications of making political contributions and expenditures. Generally, nonprofits are permitted to be involved with ballot measure efforts...termed “lobbying” for tax purposes. The tax implications of making political contributions or expenditures depend on a number of factors that are specific to each organization.

SVCN recommends that each nonprofit considering a donation to a ballot measure campaign consult with their tax counsel or accountant regarding the tax implications including but not limited to tax-exempt purpose, lobbying limits and tax reporting.

Similarly, the political reporting implications for nonprofits also depend on several factors including the past level of political involvement. Under the FPPC’s new multi-purpose organization rules, organizations such as nonprofits that exist for purposes other than making political contributions or expenditures are nonetheless required to register as political recipient committees and file campaign reports under one of the four circumstances listed below. Unlike traditional political committees, these multipurpose organizations report only their political expenditures and the source of funds used to make those political expenditures.

A multi-purpose organization may qualify as a recipient committee in one of four ways:

- 1) Organizations that solicit donations of \$2,000 or more in a calendar year for the purpose of making political contributions or expenditures in California state and local elections.
- 2) Organizations that receive donations of \$2,000 or more in a calendar year subject to a condition, agreement, or understanding with the donor that all or a portion of the donations may or will be used for making political contributions or expenditures in California state and local elections.
- 3) Organizations that have existing funds from a donor and reach a subsequent agreement or understanding with the donor that all or a portion of the funds may be used to make political contributions or expenditures totaling at least \$2,000 in a calendar year in California state and local elections.

- 4) Organizations that make political contributions or expenditures in California totaling more than \$50,000 in a period of 12 months OR more than \$100,000 in a period of four consecutive calendar years. However, please note that under this circumstance only, if an organization uses only available non-donor funds such as interest income to make its political contributions or expenditures, the organization will qualify as a major donor and not a recipient committee. As discussed below, major donor filing obligations are less complicated and onerous than the registration and compliance requirements for recipient committees.

If a nonprofit organization does not qualify as a recipient committee under any of the four circumstances above, it may still be required to comply with the FPPC's major donor filing requirements if political contributions of \$10,000 - \$50,000 are made in a calendar year in California state and local elections or as an independent expenditure committee if independent expenditures of \$1,000 or more are made in a calendar year in California state and local elections. **Under both the major donor and independent expenditure committee filing requirements, a nonprofit organization would only be required to provide information regarding contributions and expenditures made. The nonprofit would not be required to disclose information regarding contributions received by the organization or the names of its donors.**

Please note that political contributions are defined as both monetary or nonmonetary and could include a donation of the personal services of staff members of an organization. The payment of salary or compensation by an employer to an employee who spends more than 10% of his or her compensated time in any one month rendering services for political purposes is a political contribution or expenditure if the employee provides the services at the request or direction of the employer or the employee is relieved of normal working responsibilities in order to render the personal services.

Finally, please keep in mind that any contributions or expenditures of \$1,000 or more will trigger 24-hour filing obligations for both the nonprofit and the ballot measure campaign committee for all contributions and expenditures received through Election Day.