

501(c)3 OR (c)4: Which to Be, Or Both? Frequently Asked Questions

A. What does it mean that a League is “tax exempt”?

Being “tax exempt” under either 501(c)4 or (c)3 (and the applicable state tax provisions) means that a League organization is exempt from federal and state income taxes. However, they typically are still subject to other kinds of taxes, such as payroll taxes, sales or use taxes, etc. unless the applicable taxing jurisdictions provide an exemption.

B. What is the traditional League's tax exempt status?

Historically, Leagues have qualified as tax exempt under 501(c)4 as a "social welfare" organization. Over the years, LWVUS and most state Leagues and larger local Leagues have formed a “sister” Education Fund entity that is qualified as tax exempt under 501(c)3.

Please note: *the LWVSC does not have a sister Education Fund. LWVSC does have an account with the LWVUS Education Fund. Most local Leagues in SC do not have their own Education Fund. The Beaufort League is already a 501(c)3.*

C. What are the basic tax differences between 501(c)3 and (c)4?

There are only a few significant differences between the two subsections, not all of which have relevance for Leagues considering a change in tax status.

1. A 501(c)4 organization can support or oppose candidates for elected office and political parties, while a 501(c)3 organization cannot. However, this difference is irrelevant for League organizations, as our own internal LWV rules prohibit this kind of political activity.
2. There is no limit on the lobbying activities of a 501(c)4 organization, whereas a 501(c)3 organization’s lobbying activities cannot constitute a “substantial part” of its overall activities. As further discussed below, the latter limitation should not impact in any way the operations of a typical League that converts to 501(c)3 status.
3. Contributions and member dues are deductible for donors and members of a 501(c)3 organization, provided that the contributor/member does not receive anything of value in return and the contribution or dues are not specifically designed for use by the recipient for lobbying expenditures. Neither contributions nor dues are deductible for a 501(c)4 organization.

In summary, conversion to 501(c)3 status provides significant tax benefit for donors and members without imposing any practical restrictions or limitations on a League’s typical operations.

D. What benefits can result from conversion to 501(c)3?

Clearly the most certain long-term benefit is that donors and members who itemize deductions for tax purposes will achieve a tax benefit from donations and member dues. This can include in-kind contribution such as occurs when members attend the LWVUS or state League conventions or councils and absorb some or all of the cost of attendance.

It is also certain that if a League is a dual entity organization, conversion into a single 501(c)3 organization will materially reduce administrative work and expenses. If a League is currently a single organization, it will have reduced administrative work from not having to maintain the traditional form of Ed Fund account at its state League or LWVUS, although some types of financial relationships with a state League or LWVUS may continue for other purposes.

It is expected that donations in general should increase, although this may be difficult to measure because of all the things that can impact donation levels. Also, League advocacy efforts might be more easily supportable by tax-deductible donations or possibly grant funding. A letter from the IRS determining the conversion to a 501(c)3 could be used to obtain discounts not available to 501(c)4 organizations.

E. What might be the impact of a conversion on a League's advocacy activities?

With respect to a League's general advocacy activities, where there is no reference to specific legislation or ballot measure and thus no "lobbying," there is no limitation at all under 501(c)3. "Lobbying" for tax purposes is closer to the League concept of "action" rather than "advocacy." Activities are classified as lobbying if they are related to acts, bills, resolutions, or similar items (a) at the federal, state, or local legislative level, or (b) in ballot measures, e.g., a referendum, initiative, constitutional amendment, etc. They must involve communication with a member or employee of a legislative body, or with any other government official or employee who may participate in the formulation of the legislation. It also includes "grass roots" lobbying, or communication with members of the organization or members of the public to urge them to contact their legislator, etc., or to vote for or against a ballot proposition, etc. With respect to ballot measures, communications to voters would qualify as lobbying.

A 501(c)3 organization really should elect under 501(h) to measure its lobbying by dollars spent rather than time spent, or else all its members will have to keep detailed time records for all their League work, not just the time spent on lobbying activities. In the state or local League context, "action" or lobbying normally involves members' time rather than much staff time, and little or no out of pocket expenditures. **If a 501(c)3 organization has expenditures of \$500,000 or less, it is limited to spending no more than 20% of its expenditures on advocacy/lobbying.** This assumes that the organization has elected to use the IRS 501(h) expenditure test. So with the 501(h) election in place, Leagues will almost never realize any restrictions on their activities in the broad field of advocacy/lobbying.

F. Are there possible disadvantages/costs to a League converting to tax exempt under 501(c)3?

There is an intangible "cost" of achieving this change due to the time necessary (a) to make the required analysis and planning, and then (b) to actually implement the conversion, but this time should be easily managed with the resources available from LWVUS. It is possible that annually a League will have a few additional tax forms to be filed, but overall the incremental work is very minimal. If a League has to apply to the IRS as part of the conversion process, there is a \$600 application fee.

*Please note: A state League has the option to pay a \$2,000 fee that covers its own application and also the fees of its local Leagues that wish to convert. LWVSC has chosen to use this option and has decided not to ask the local leagues to contribute to this cost. The deadline for a local League to let the state board know if they wish to participate is **June 15, 2019**.*

G. Does LWVUS recommend the Leagues convert to 501(c)3?

LWVUS does not "recommend" that a League pursue this conversion because it has concern that a League could have very specific individual factors that might make such a conversion impractical. However, LWVUS is providing substantial support to all Leagues wishing to consider this change through the services of LWVUS consultants Tom Carson (tpcarson@outlook.com) and Toni Larson (toni.larson@gmail.com), and highly recommends that all Leagues consult with them during their planning and certainly before making a final decision. Under certain circumstances, the services of an attorney may also be beneficial.

H. How long does the process take?

The application is unlikely to be approved in less than nine to twelve months, but the change in status, when it occurs, will be retroactive to the date of application.

I. What do Local Leagues have to do?

Each League needs to consult directly with Tom Carson or Toni Larson (see G above) to discuss their League's individual circumstances. Local Leagues will need to add wording to their bylaws and might have to change their articles of incorporation. (But Local Leagues do not have to be incorporated to participate.) **Please note: S.C. local Leagues need to let the state board know by June 15, 2019, if they wish to participate in our application.**