

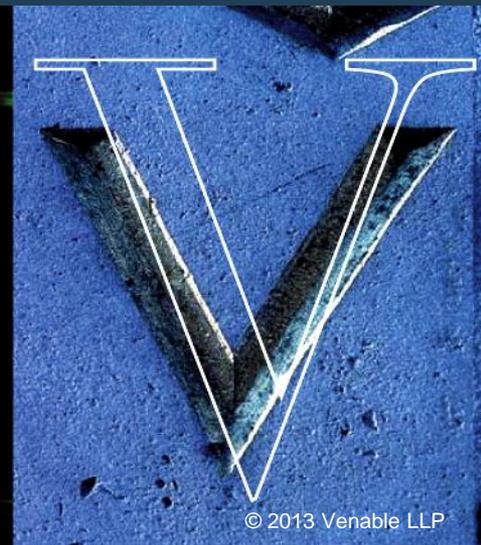
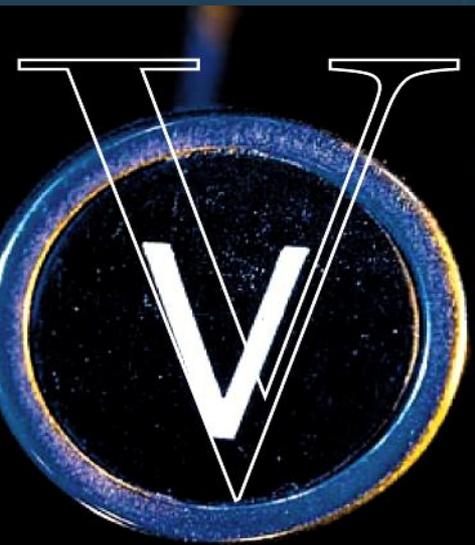
Nonprofit Organizations Committee Legal Quick Hit:

Expanding Your Advocacy and Political Reach: Adding a 501(c)(4) to Your Nonprofit's Org Chart

PRESENTER: RONALD M. JACOBS, ESQ.

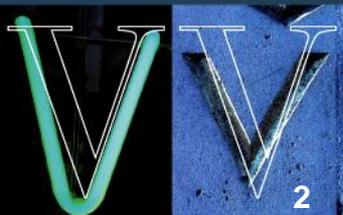
TUESDAY, AUGUST 13, 2013

3:00 p.m. EDT



Overview

- Why we need affiliated entities
- Controlling the 501(c)(4)
- Corporate separation issues
- Political activity options

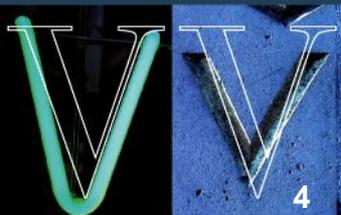


Problem: Limits on 501(c)(3)s

No
politics

Limited
lobbying

Exempt
purpose



Solution: Create Related Entity



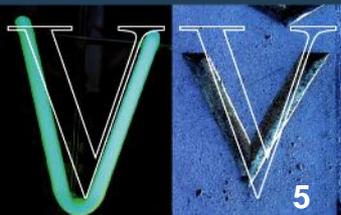
Unlimited lobbying



Limited political activity

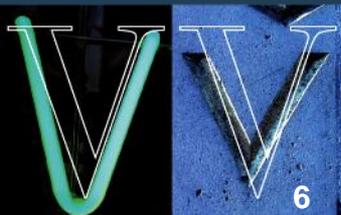


Other exempt activities

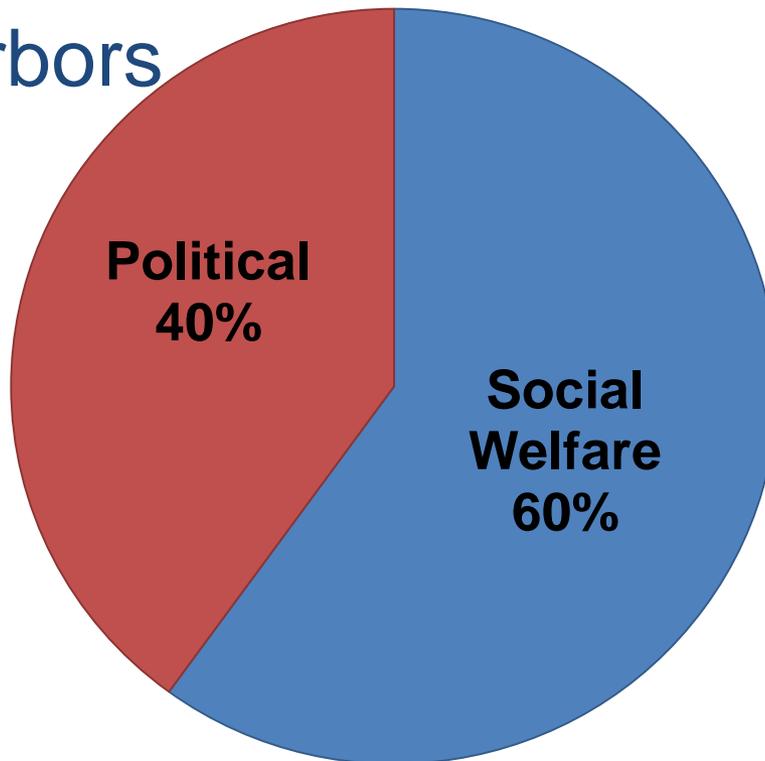


Political Activities of a 501(c)(4)

- Primary purpose must be social welfare
- Social welfare does not include political activity
- No clear bright lines
 - BUT: report from IRS provides some ideas



Safe Harbors



Expenditures

- Include reasonable overhead allocations

Time

- Paid staff and volunteers



Political Activity in the Safe Harbor



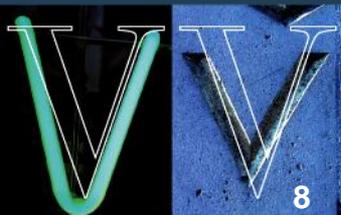
Public communications 60 days before general or 30 days before candidate that reference a candidate



Events with only one candidate



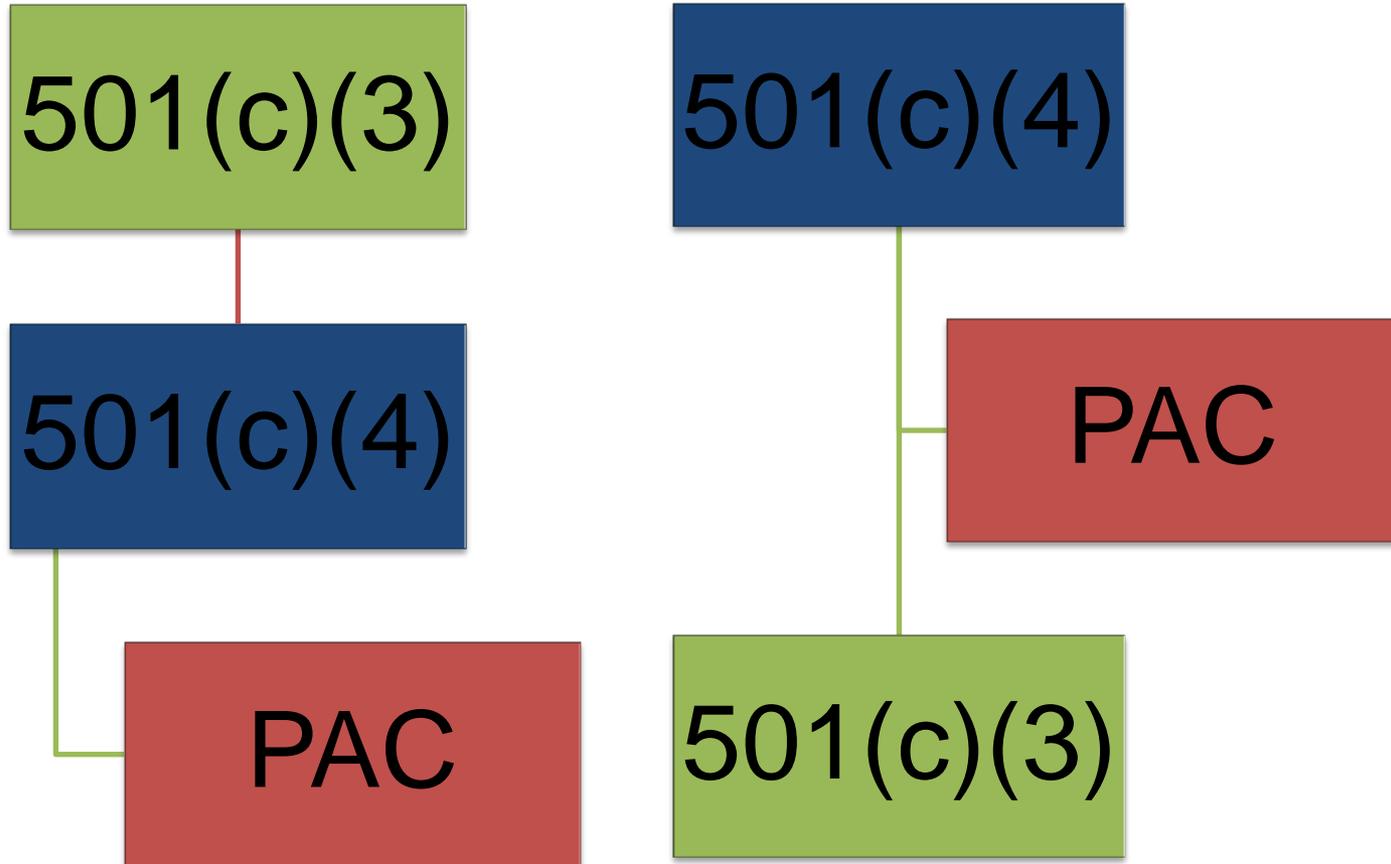
Grants to organizations engaged in political activity



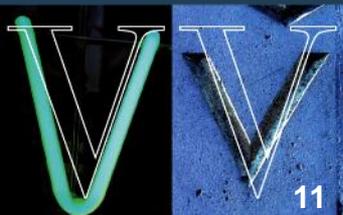
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What does it look like?

Structural Options



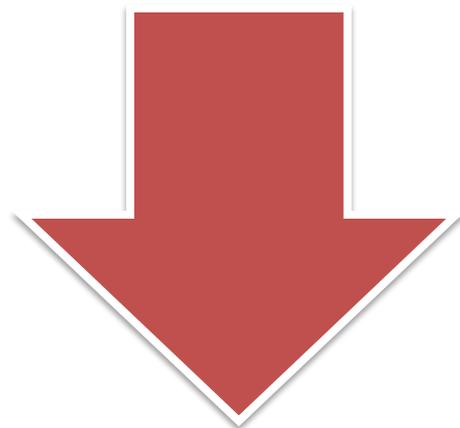
In Practice





Controlling the 501(c)(4)

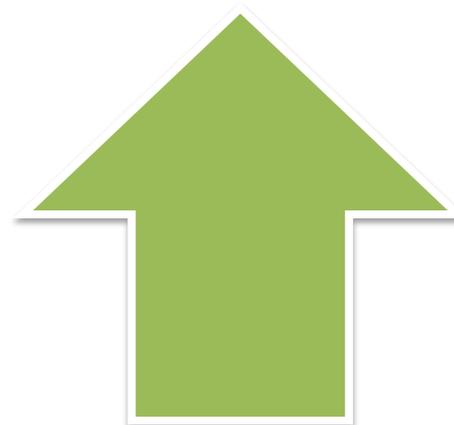
Considerations



Sufficient
control



Maintain
corporate
separateness



Control Options

Overlapping
boards

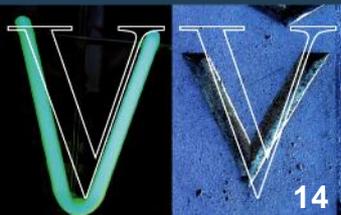
- Self-perpetuating boards with common membership

Board
appointment

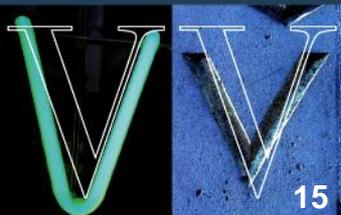
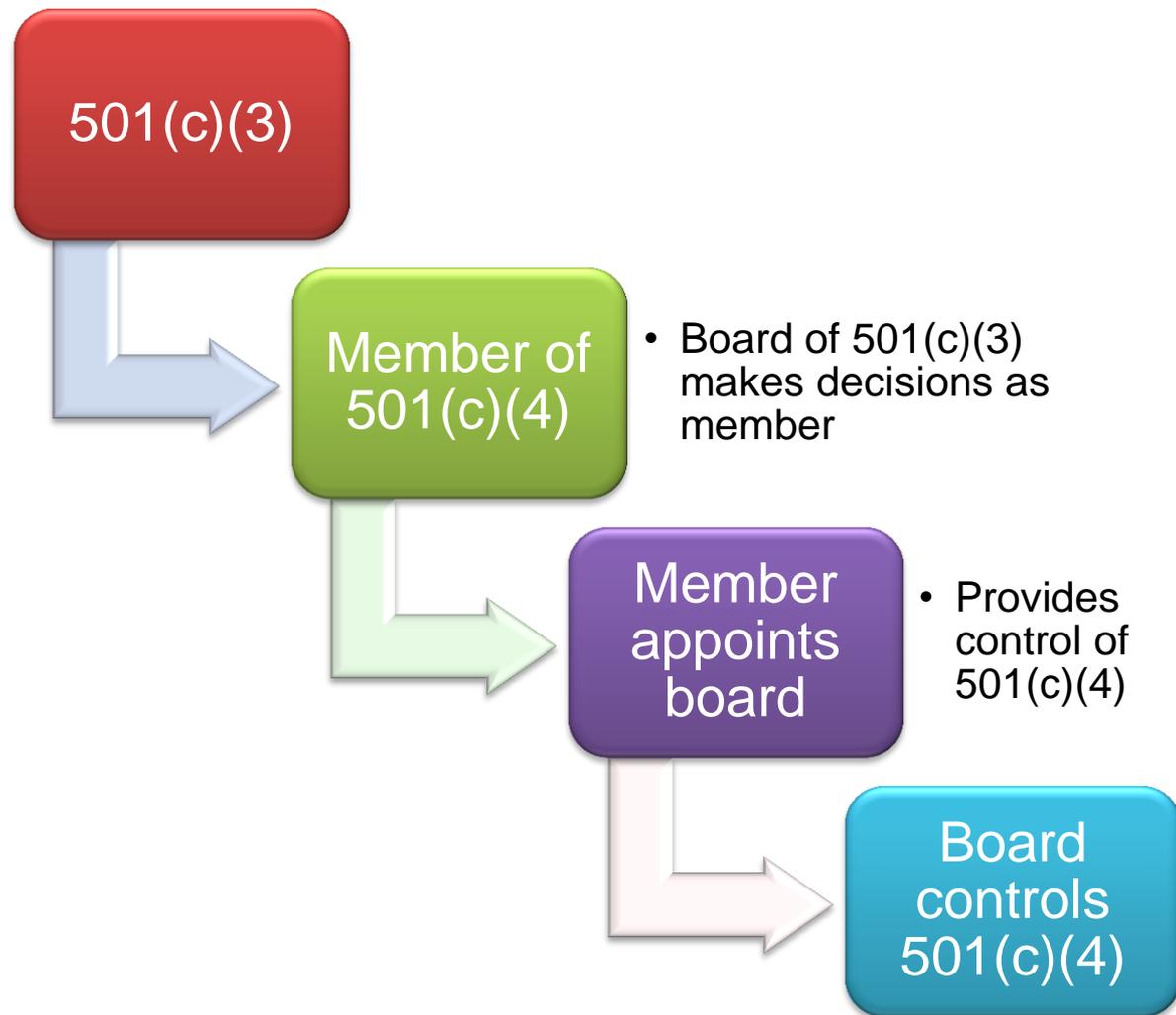
- One board appoints the other board

One entity as
member of the
other

- Member appoints the board of the entity



501(c)(3) as Member



Membership Considerations

- If planning a PAC, members need to be solicited
- Sole member cannot be the 501(c)(3)
- Think about another class of members
 - Must satisfy FEC rules
 - Affirmatively accept membership
 - Annual dues
 - Say in management
 - Other indicia



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Resources

501(c)(3) Resources

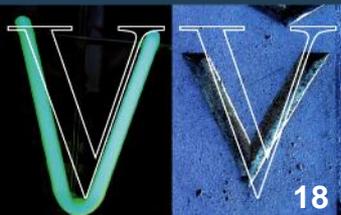
No (c)(3) resources for (c)(4)

Fair market value

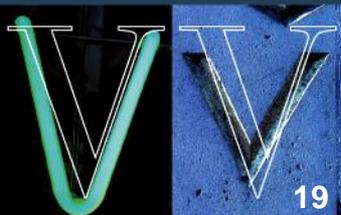
Contractual arrangement

Startup costs

Appearance



Intellectual Property



Websites

- Political activity
 - Additional separation
 - Do not include 501(c)(3) logo on 501(c)(4) pages
 - Think about separate domains
- PAC
 - Member only log-in
 - No direct link from 501(c)(3) page



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Staffing Options

Separate staff

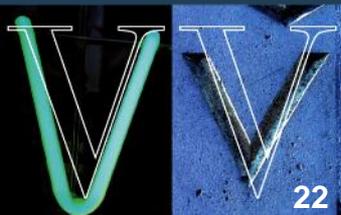
- Less risk of wrong function

Leased staff

- Single employer

Shared staff

- Right hat important



Shared

- Time sheets
- Written agreement
- Include benefits
- Titles
- Multiple business cards



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Other Issues

Primary Purpose

- 501(c)(3) does:
 - Exempt activity
 - Education
 - Some lobbying
- 501(c)(4)
 - Created for political work
 - Must have 60% nonpolitical
 - Move lobbying to (c)(4)
 - Move some education

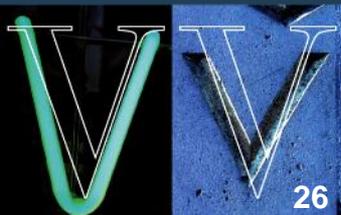


527(f) Tax

Tax on the lesser of:

**Net investment
income**

**Political
expenditures**



527(f) Tax

- Unless all political expenditures are from segregated fund
- But, the only account that qualifies:
 - PAC
 - 527 registered with IRS—must disclose donors



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Questions

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