**Federal Election Campaign Act: Introductory Guidance**

**Relevant Authority**

The Federal Election Campaign Act[[1]](#footnote-1) prohibits a corporation from making a contribution or expenditure in connection with any federal election, that is an election for President, Senate, or the House of representatives, or any primary election for a federal candidate. Contributions and expenditure are broadly defined and include not only contributions to a candidate or a candidate committee, but in- kind contributions and expenditures on behalf of a candidate, such as political advertising.

**Advice and Recommendations[[2]](#footnote-2)**

The Federal Election Campaign Act applies to all corporations, not just tax-exempt corporations. While the Act applies only to corporate expenditures in a federal election, state law also may regulate corporate political campaign activity.

A PCA-HCCN that is tax-exempt under IRC Section 501(c)(4) or (c)(6) may attempt to influence the outcome of a federal election by establishing a separate segregated fund (“SSF”), sometimes referred to as a political action committee (“PAC”). The SSF may solicit contributions to be used in connection with a federal political campaign and make contributions to candidates and otherwise engage in advocacy on behalf of or in opposition to a candidate. The sponsoring corporation may pay all of the overhead expenses of the SSF, including fundraising expenses. Because such support is considered to be political campaign intervention, a Section 501(c)(3) organization may not establish and support an SSF.

There are, however, substantial restrictions on the individuals whom an SSF can solicit for or accept contributions. Generally, solicitation is limited to the executives and administrative employees of the sponsoring organization and, if the sponsoring organization is a trade association, executives and administrative employees of member organizations, provided that the member organization has first given its permission for any solicitation.

As a result of the Supreme Court’s decision in Citizens United v. FEC, corporations (but not those exempt from federal income tax under IRC Section 501(c)(3)) are permitted to make expenditures for communications that expressly advocate the election or defeat of a clearly identified candidate in a federal election, provided that the communication is made without the request or suggestion of or in cooperation with the candidate or a political party. Note that federal funds cannot be used to pay the costs of such communication.

* [Lobbying and political campaign activities](http://www.healthcentercompliance.com/subscriber/pca-toolkit/volume-2/879): Sample policy and procedure
1. 2 U.S.C. § 431 et seq. [↑](#footnote-ref-1)
2. The Authors of these materials include attorneys at the law firm of Feldesman Tucker Leifer Fidell LLP. The advice and recommendations consist of general guidance based on federal law and regulations and do not necessarily apply to all PCAs-HCCNs under all facts and circumstances. Further, these materials do not replace, and are not a substitute for, legal advice from qualified legal counsel. [↑](#footnote-ref-2)