

January 22, 2021

**501(c)(3) Organizations Can Support or Oppose Ballot Measures
But Must Comply With IRS Limits and Campaign Finance Rules**

Public charities with 501(c)(3) tax exempt status can support or oppose New York ballot measures, because ballot measure advocacy is not covered by the IRS' ban on partisan political activities. Organizations that decide to do so should consider taking two steps to comply with tax and campaign finance obligations:

1. Track and report advocacy to the IRS: Ballot measure advocacy is subject to the IRS' lobbying limit. Activities in support of ballot advocacy, including the use of staff time, must be tracked and reported annually on the IRS Form 990.

For information about the IRS' lobbying limit, see Lawyers Alliance, [FAQ's on Nonprofits and Lobbying](https://lawyersalliance.org/advocacy), available at <https://lawyersalliance.org/advocacy>

2. Set up an independent expenditure committee and report to election regulators:

New York State Board of Elections' campaign finance rules cover state or local ballot measure advocacy that:

- takes place during the same calendar year in which the measure will be on the ballot;
- and is distributed to 500 or more members of the public (communications over the internet do not count unless they are paid ads).

NYC Campaign Finance Board rules cover advocacy regarding NYC ballot measures that is communicated via:

- radio, TV, cable or satellite broadcast,
- 500 or more telephone calls,
- mailing 500 or more copies,
- other printed material, or
- any form of paid ad (including internet ads; free internet posts, emails and social media are not covered).

By setting up a separate independent expenditure committee, it is possible to avoid subjecting the entire organization to campaign finance obligations, which may include:

- Registering with the Board of Elections (required prior to issuing such a communication);
- Filing disclosure statements and periodic reports with the Board of Elections (disclosing contributions and expenditures), and making similar disclosures through the NYC Independent Expenditure Disclosure System;
- In the communication, disclosing the spender's identity; and
- A ban on foreign nationals controlling more than 5% of the votes on the Board of Directors.

More information about the campaign finance rules applicable to ballot measures is available at:

- NYS Board of Elections, Campaign Finance Handbook
<https://www.elections.ny.gov/NYSBOE/download/finance/hndbk2019.pdf>
- NYC Campaign Finance Board, Independent Expenditures Guide
<http://www.nyccfb.info/independent-expenditures/independent-expenditures-guide/>

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