

**SUPPLEMENTAL EXHIBIT D-2  
(EXPLANATION BETWEEN  
501(C)(2) AND 501 (C)(4))**

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## The difference between 501(c)(3) and 501(c)(4) organizations



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Many people often wonder what the difference is between a 501(c)(3) and a 501(c)(4) organization. It is easy to confuse the two classifications as both are considered nonprofits and there are many similar characteristics. However, there are crucial differences between these two types of nonprofit organizations and it is important to understand the distinction.

According to the Internal Revenue Service Code, 501(c)(3) and 501(c)(4) organizations are nonprofit organizations that are exempt from paying federal income tax. 501(c)(3) organizations are either a public charity, private foundation or private operating foundation with open membership whereas 501(c)(4) organizations are civic leagues or associations operated exclusively for the promotion of social welfare or local associations of employees with limited membership.

When it comes to lobbying and political activity, 501(c)(3) organizations can appeal directly to legislative bodies and representatives and may support issue-based legislation. However, they must notify the IRS of their intent to lobby by filing form 5768, which formally informs the federal government that one has elected to use the expenditure test to have the organization's lobbying activity measured. Under this test, lobbying capacity is typically limited to spending less than 5 to 20% of the organizational budget on lobbying activities, depending on the size of your organization.

501(c)(4) organizations can engage in unlimited lobbying so long as it pertains to the organization's mission. 501(c)(3) organizations are not permitted to engage in political activity, endorse or oppose political candidates, or donate money or time to political campaigns, but 501(c)(4) organizations can do all of the above.

In regards to supporting these organizations, donations made to 501(c)(3) organizations are deductible to the full extent of the law as charitable contributions. Donations made to 501(c)(4) organizations are not deductible, though some businesses who make these contributions often write them off as advertising or business expenses. (Please consult your accountant.)

**Which should you choose, a 501(c)(3) or a 501(c)(4)?**

If you are planning on doing limited or no lobbying, then you should choose the 501(c)(3) status so donors can benefit from giving to your organization. However, if your organization will be doing a lot of lobbying or any campaigning, you should form a 501(c)(4) to inoculate yourself from any charges of violating your 501(c)(3) status.

If you want the best of both worlds, you can have two separate but affiliated organizations - one a charitable 501(c)(3) and the other a 501(c)(4) lobbying arm. Many trade organizations lobby extensively on behalf of their members, but have an affiliated 501(c)(3) foundation for charitable giving and educational purposes.

Some examples of 501(c)(3) organizations include charities and educational institutions such as The Global Fund for Children and The Stella Adler Studio of Acting. Examples of 501(c)(4) organizations include unions, fraternal organizations and trade associations.

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