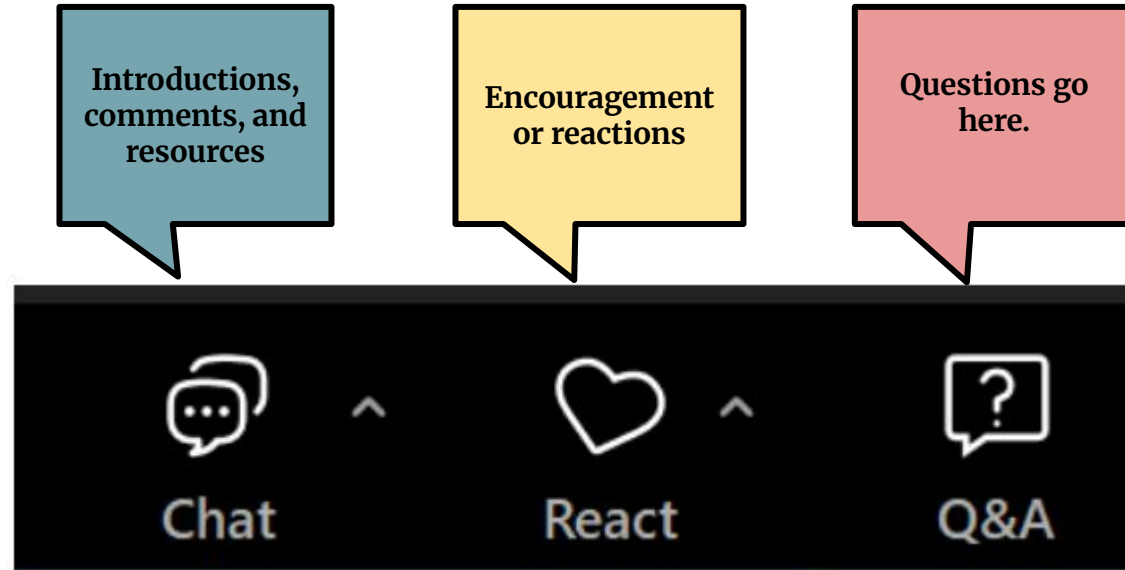


Announcements and Housekeeping

- Please put questions in the Q&A section of the webinar (not the chat, please) and they will be answered at the end of the presentation.
- A recording of the webinar will be sent to everyone who registered, whether or not they attended.
- Closed Captioning available via Zoom



Staying Nonpartisan for 501c3 Organizations



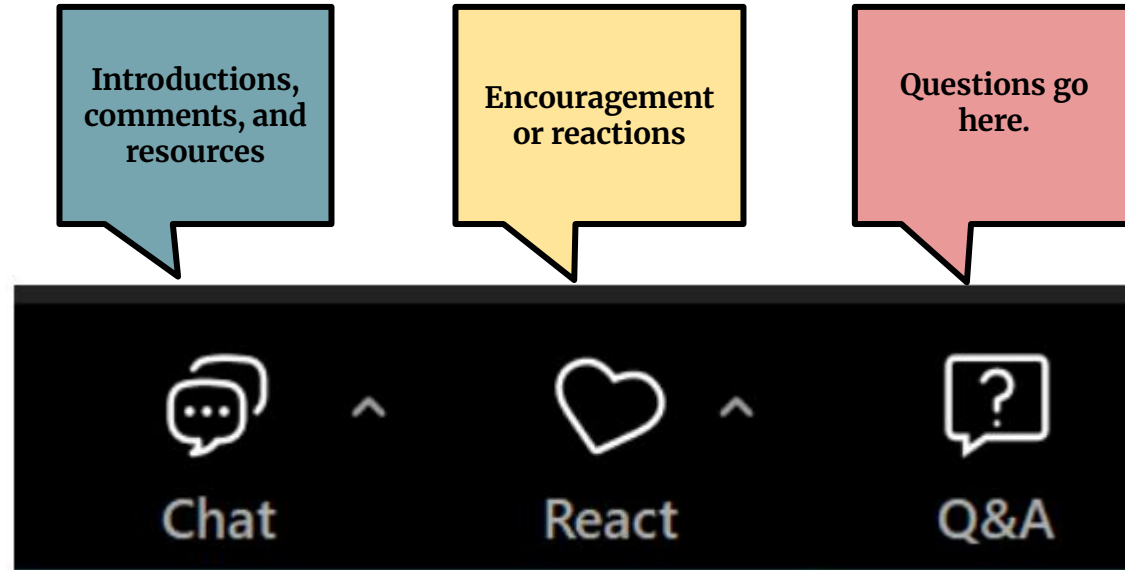
4-23-25

Agenda

- Welcome
- Housekeeping and Agenda Review
- Staying Nonpartisan
- Audience Q&A
- Call to Action
- Closing remarks

Announcements and Housekeeping

- Please put questions in the Q&A section of the webinar (not the chat, please) and they will be answered at the end of the presentation.
- A recording of the webinar will be sent to everyone who registered, whether or not they attended.
- Closed Captioning available via Zoom



Who is Nonprofit VOTE?

Mission: Nonprofit VOTE equips our nation's nonprofits with nonpartisan tools and resources to help the communities they serve participate in voting and democracy.

Vision: We envision a diverse network of nonprofits across the United States with the skills, resources, and commitment needed to foster **a more inclusive democracy** where all voices are heard, particularly those currently underrepresented in the voting process.

Speaker



Stephanie Robbins, Attorney

Harmon, Curran, Spielberg & Eisenberg, LLP

Staying Nonpartisan for 501(c)(3) Organizations: Operating Lawfully in a Political Environment

Disclaimers

- The presentation is given for informational purposes only.
- It is **NOT**
 - (1) provided in the course of and does not create or constitute an attorney-client relationship;
 - (2) intended as a solicitation;
 - (3) intended to convey or constitute legal advice; and
 - (4) a substitute for obtaining legal advice from a qualified attorney.

Agenda

- What are the requirements of section 501(c)(3)?
- How to ensure your voter engagement work is nonpartisan?
- How can my organization legally advocate for its issues?
- Can the government revoke my organization's exempt status?

What are the requirements of section 501(c)(3)?



A Section 501(c)(3) Organization...

- **MUST** be organized and operated exclusively (i.e., primarily) for one or more tax-exempt purpose:
 - Religious, Charitable, Scientific, Testing for Public Safety, Literary, Educational
- **MAY** engage in insubstantial lobbying (i.e., attempt to influence legislation)
- **MAY** engage in nonpartisan voter engagement and education
- **CANNOT** participate or intervene in (directly or indirectly) any political campaign on behalf of or in opposition to any candidate for public office (i.e., political campaign intervention)
- **CANNOT** operate for the benefit of substantial private interests
- **CANNOT** engage in substantial illegal activity or activity that is contrary to public policy

A section 501(c)(3) organization
MAY engage in
NONPARTISAN political activity!

Partisan v. Political

Partisanship – “a strong adherence, dedication, or loyalty to a political party – or to an ideology or agenda associated with a political party – usually accompanied by a negative view of an opposing party” (Source: [Britannica](#))

Political – “of or relating to politics or government” (Source: [Britannica](#))

Political v. Political Activity

- **Dictionary Definitions:**

- **Political** – “of or relating to politics or government” (Source: [Britannica](#))
- **Politics**, in part – “Activities that relate to influencing the actions and policies of a government” (Source: [Britannica](#))

- **IRS Definition:**

- Political Activity – “participat[ing] in, or interven[ing] in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office” (Source: [26 U.S.C. § 501\(c\)\(3\)](#))

A Section 501(c)(3) Organization...

- **MAY** engage in **NONPARTISAN** POLITICAL ACTIVITY
 - Issue Advocacy
 - Voter education
 - Voter registration
 - Get Out The Vote (GOTV)
 - Candidate Engagement
- **MAY NOT** support or oppose any candidate for public office
 - Endorse a candidate or support a political party
 - Donate money or resources to a candidate or party
 - Conduct any partisan election-related activity

(Source: [Rev. Rul. 2007-41](#))

What is issue advocacy?



This Photo by Unknown Author is licensed under [CC BY-SA](#)

What is issue advocacy?

- “Issue advocacy conveys information and educates.” (Source: [*FEC v. Wis. Right to Life, Inc.*](#), 551 U.S. 449, 470 (2007))
- “An organization may be educational even though it advocates a particular position or viewpoint.” (Source: [Treas. Reg. § 1.501\(c\)\(3\)-1](#)(d)(3)(i))
- The IRS evaluates the **method** an organizations uses to develop and present its views, not the viewpoint or position of the organization. (Source: [Rev. Proc. 86-43](#))

Impermissible Issue Advocacy...

- Presents viewpoints or positions that are unsupported by facts in a significant portion of the organization's communications.
- Distorts the facts that purport to support the viewpoints or positions.
- Makes substantial use of inflammatory and disparaging terms and expresses conclusions more based on strong feelings rather than objective evaluation.
- Is not aimed at developing the public understanding and is not tailored to the public's background or training in the matter.

(Source: [Rev. Proc. 86-43](#))

Permissible Issue Advocacy...

- Presents viewpoints or positions that are supported by facts in a significant portion of the organization's communications.
- Accurately conveys the facts supporting the organization's positions.
- Objectively evaluates the facts and shies away from inflammatory and disparaging terms.
- Is aimed at developing the public understanding and is tailored to the public's background or training in the matter.

(Source: [Rev. Proc. 86-43](#))

How can my organization legally advocate for its issues?



U.S. Constitution, First Amendment

- Congress shall make no law . . . abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.
- The government “may not deny a benefit to a person on a basis that infringes his constitutionally protected interests – especially his interest in freedom of speech.” (Source: *Perry v. Sindermann*, 408 U.S. 593 (1972))

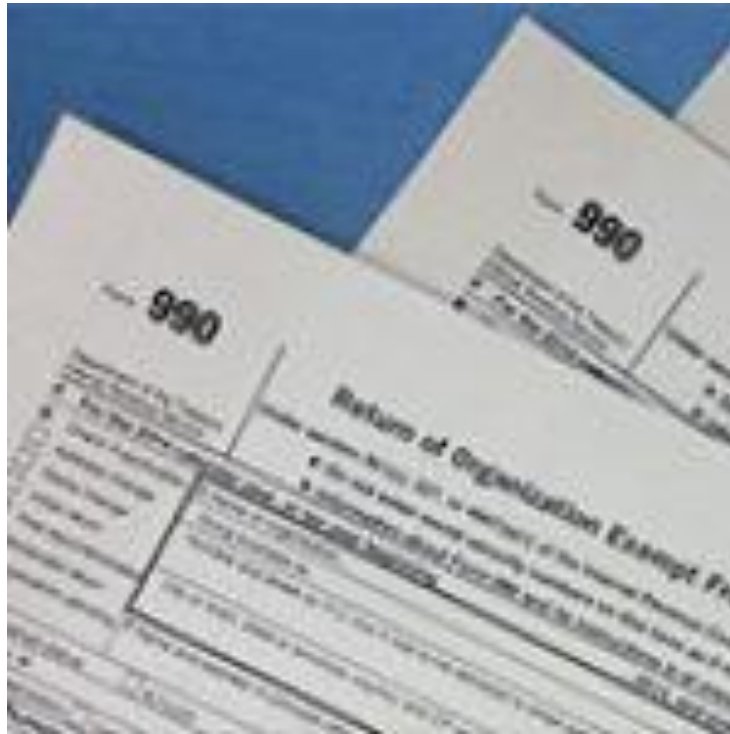
Exceptions to Freedom of Speech

- Threatening the President or Vice President of the United States
 - (Source: [18 U.S.C. § 871](#))
- False Statement of Fact (Defamation)
 - (Source: *Gertz v. Robert Welch, Inc.*, 418 U.S. 323 (1974))
- Fighting Words
 - (Source: *Chaplinsky v. New Hampshire*, 315 U.S. 568 (1942))
- Incitement
 - (Source: *Brandenburg v. Ohio*, 395 U.S. 444 (1969))

Permissible Protest Activity

- The First Amendment allows groups to peaceably assemble. This does not mean all protest activity is protected.
 - The Supreme Court has been clear that the government may impose reasonable restrictions on the time, place, and manner of protests. The First Amendment does not apply to private property.
 - Permits for protests may be required; cannot block entrances to buildings; there may be certain restrictions on time of day and/or noise level.
 - Violence and threats are not protected under the First Amendment.
- Lawful, peaceful protest is permitted, i.e. no civil disobedience (Source: [Rev. Rul. 75-384](#))

Can the government revoke my organization's tax-exempt status?



Executive Orders

- An executive order (EO) is the “principal mode of administrative action on the part of the president of the United States.”
(Source: [Britannica](#))
- EOs have the force of law within the executive branch
- EOs **cannot** create new laws or override existing laws
- EOs **can**:
 - Manage federal operations;
 - Address emergencies; and
 - Implement policy changes within the executive branch.

Presidential (Lack of) Power

- “It shall be unlawful for any applicable person to request, directly or indirectly, any officer or employee of the Internal Revenue Service to conduct or terminate an audit or other investigation of any particular taxpayer with respect to the tax liability of such taxpayer.” (Source: 26 U.S.C. § 7217)
- Applicable Persons:
 - The President
 - The Vice President
 - Any employee of the executive office the President or Vice President
 - Any individual (other than the U.S. Attorney General) serving in cabinet level positions
 - EXCEPTION: Secretary of the Treasury may make a written request “as a consequence of the implementation of a change in tax policy”

A determination letter may be revoked or modified—

- (1) By a notice (from the IRS) to the taxpayer to whom the determination letter was issued;
- (2) By enactment of legislation or ratification of a treaty;
- (3) By a decision of the Supreme Court of the United States;
- (4) By the issuance of temporary or final regulations;
- (5) By the issuance of a revenue rule, revenue procedure, or other statement published in the Internal Revenue Bulletin; or
- (6) Automatically by operation of § 6033(j), for failure to file a required annual return or notice for three consecutive years.

SOURCE: [Rev. Proc. 2025-5](#), § 12.01

Revocation/Suspension by the IRS

- Revocation of tax-exempt status *ordinarily* occurs:
 - (1) At the culmination of an examination (Source: [26 U.S.C. §§ 7601-7613](#); or
 - (2) Automatically by operation of law for failure to file annual information returns or notices for three consecutive years (Source: [26 U.S.C. § 6033\(j\)](#))
- Suspension of tax-exempt status occurs automatically if a tax-exempt organization is designation or otherwise individually identified as a terrorist organization (Source: [26 U.S.C. § 501\(p\)](#))

How do IRS examinations ordinarily commence?

Exempt Organizations (EO)

Examinations

	Started	Closed	Change %	Pick-up %
Compliance Strategies	160	207	64.7%	31.9%
Data-Driven Approaches	489	536	67.2%	52.8%
Referrals, Claims and Other Casework	2,590	1,212	79.5%	31.8%
Totals	3,239	1,955	74.5%	37.5%

80% of Examinations

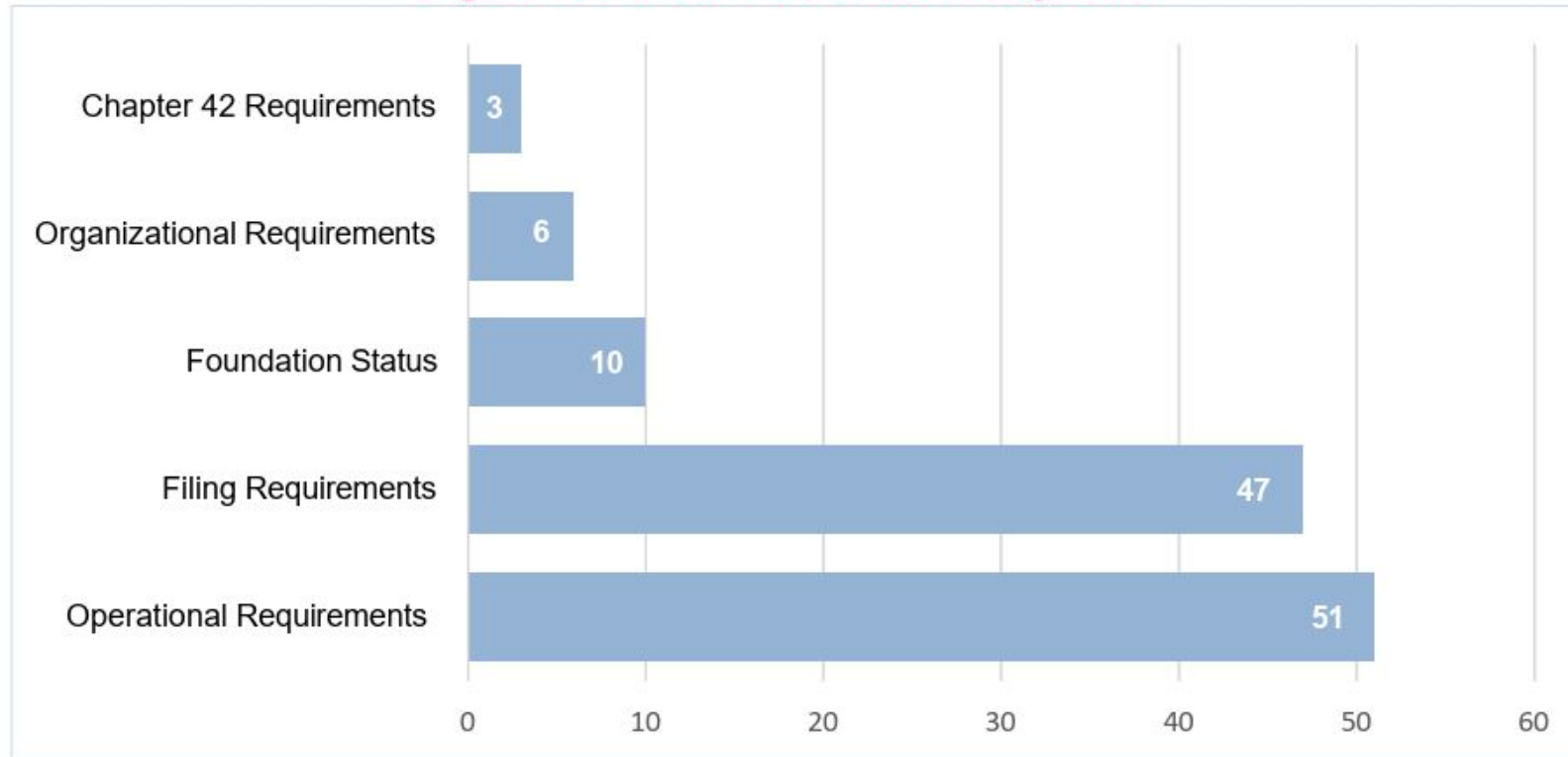
EO completed examinations of 1,955 filings in FY 2024, including the Form 990 series (990, 990-EZ, 990-PF, 990-N, 990-T) and their associated employment and excise tax returns. Overall, 74.5% of closed examinations resulted in a tax change (change percentage) and 37.5% of the examinations were “picked-up” from a related examination (pick-up percentage). We proposed revocations for 87 tax-exempt entities as a result of these examinations.

NOT ACTUAL

2% of Examinations

Reasons for Revocations

Figure 2: FY 2024 Revocations by Issue*



* Examinations can have more than one issue code. As a result, the number of issues reported in the chart above doesn't match the number of revocations.

Likelihood of Examination

- In 2024:
 - More than 1.8 million exempt organizations existed (Source: [Tax Foundation](#))
 - Only 3,289 examinations commenced
 - 87 revocations **proposed**
- Thus, an organization's chance of audit in 2024 was less than 1% (0.18% to be exact) and the chance of proposed revocation approached 0% (0.0000483% to be exact)
- Chances of examination is higher if a third party, including departments of the IRS or the Treasury Department, refer an organization for examination

Examination Process

- STEP ONE: Examination
- STEP TWO: If revocation is proposed, IRS Independent Office of Appeals
- STEP THREE: If Appeals agrees with the IRS's proposed revocation, determination can be challenged in one of the following courts
(Source: [26 U.S.C. § 7428](#))
 - Tax Court
 - U.S. Court of Federal Claims
 - U.S. District Court for the District of Columbia

Audience Q&A

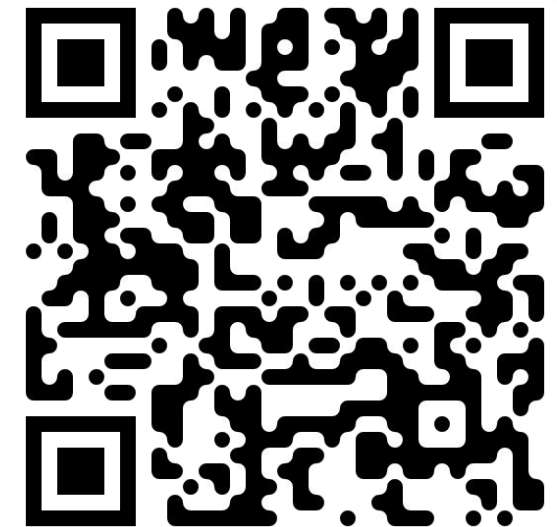
Please drop your questions into the zoom Q&A box.

National Voter Registration Day is on September 16th!

Sign up now to become a community partner

As a partner you'll receive the following at no-cost:

- **2025 Posters and stickers**
 - Will be available for digital downloads and editable in Canva
- **Toolkits: Communications, field, social media toolkits**
 - Including recommended copy for press and social media to help make promotion of the holiday low-lift
- **Fact sheets**
 - Community partners, high schools & campuses, election officials, and employee engagement
- **Ongoing webinars**



Open your camera app and snap a photo of this QR code. Click the link that pops up to sign up!



Tell the Senate

“NO” on the

SAVE Act



Take the Nonprofit VOTE Pledge



bit.ly/nonprofitpledge

Thank you!

Follow us on Socials:
Facebook, Twitter/X, YouTube,
Instagram, and now
Bluesky!



Bluesky

Contact us:
nonprofitvote.org and
info@nonprofitvote.org



Help Support Nonprofit
Voter Education in 2025 &
Beyond

Nonprofit VOTE's public webinars,
tools, and resources are free for all
to use, thanks to the generous
support of our network of
democracy champions!