

Title: Weather and Politics

By: Timothy P. Fitzgerald

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According to the National Oceanic and Atmospheric Administration, July 2012 was the hottest month on record for the continental United States. Surely, approaching autumn days will provide some very welcome cooler weather for much country. But with Republicans just having convened in Tampa, and Democrats set to gather in Charlotte this week, there is no doubt - - the political climate in Washington and around the nation will be sweltering at "July-like" levels in heat and intensity until the November elections conclude.

This election season, Americans are certain to be inundated with political ads supporting candidates in both major parties. While many of the ads will be funded by "super PACs" (which are required to disclose the names of donors), news reports have uncovered a dramatic increase in the use of tax-exempt social welfare groups, known by their Internal Revenue Code section number as "501(c)(4)" organizations (whose donors are allowed to be kept secret). While it is true that §501(c)(4) organizations are permitted to engage in "some" level of political activity on behalf of, or in opposition to candidates for public office, in order to retain tax-exempt status, the organizations are required to ensure that political campaign activities do not constitute their "primary" activity.

Most Americans find it difficult to understand how organizations such as Priorities USA (Democratic leaning) and Crossroads GPS (Republican leaning) circumvent the rules against operating "primarily" for political purposes. All signs indicate that these organizations plan to spend hundreds of millions of dollars this year in support of their candidates. Outside groups have been pressuring the IRS for years to change the tax treatment for so-called "social welfare" organizations, allied with both major political parties, which raise donations from individuals and corporations without having to reveal the names of donors. The ultimate goal is to prevent political offshoots from using tax-exempt status to keep big donors secret while funneling money to campaigns.

Last year, the IRS said that examining the tax-exempt status and activities of §501(c)(4) organizations would be a priority for 2012. Removing the §501(c)(4) exemption would be quite serious for the organizations, as it would force these organizations to either retain tax exemption by converting to a super PAC (and disclosing their donors), or, less likely, pay taxes on the millions of dollars in donations received. Either way, American citizens would likely stand to benefit from the increased transparency.

While the IRS' review will probably last for several years - and will most likely not be concluded before the November 2012 elections – American citizens fed up with politics lately may have cause for optimism in the coming years.

Our firm has extensive experience advising non-profit and tax-exempt organizations. If we can be of help to you and your non-profit organization, please feel free to contact Marc Lane directly at mlane@MarcJLane.com.

Timothy P. Fitzgerald is a Principal with The Law Offices of Marc J. Lane, a Professional Corporation. Mr. Fitzgerald is a graduate of DePaul University College of Law (J.D. with Tax Certificate) and Marquette University (B.S.). Mr. Fitzgerald is also a Certified Public Accountant.



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