

Gardner Lorraine E

From: Hogan James F
Sent: Friday, April 08, 2011 12:05 PM
To: Gardner Lorraine E
Subject: RE: TEGE Referrals - 501(c)(4)

Sure.

From: Gardner Lorraine E
Sent: Friday, April 08, 2011 12:03 PM
To: Hogan James F
Subject: RE: TEGE Referrals - 501(c)(4)

If we are not furloughed, I can have something by cob Thursday or sooner. Lori

From: Hogan James F
Sent: Friday, April 08, 2011 9:35 AM
To: Gardner Lorraine E
Subject: RE: TEGE Referrals - 501(c)(4)

Next Wednesday or Thursday if that's OK with your schedule. I'm flexible.

From: Gardner Lorraine E
Sent: Friday, April 08, 2011 9:33 AM
To: Hogan James F
Subject: RE: TEGE Referrals - 501(c)(4)

Do you want the draft for review? Lori

From: Hogan James F
Sent: Friday, April 08, 2011 9:31 AM
To: Gardner Lorraine E
Subject: FW: TEGE Referrals - 501(c)(4)

Per our conversation.

From: Piehl Lisa M [mailto:Lisa.M.Piehl@irs.gov]
Sent: Thursday, March 24, 2011 11:46 AM
To: Hogan James F
Subject: TEGE Referrals - 501(c)(4)

Hi,

We are receiving referrals from TEGE on potential non-filers re 501(c)(4) donors. We believe that 501(c)(4) warrants review for non-filers. After your discussion with (b)(6) with respect to questions raised in reparation of the TEGE CPE [(b)(5) DP]

4/10/2011

IRS-JW-220-004790

(b)(5) DPP

The IRS has taken the position, via several revenue rulings, that contributions to 501(c)(4) organizations for social welfare purposes are subject to the gift tax. Notwithstanding this position, the area of law is less settled when the organization is involved in candidate-related activities. As a result, there are many legal theories that have been developed by practitioners to attack the validity of the IRS position especially in such cases.

The bottom line is that the facts of each contribution warrants review to ascertain compliance with gift tax laws and may result in gift tax non-filers but may also involve significant disagreement from some contributor representatives.

Lisa M. Pfeil

Estate and Gift Policy Manager

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Woodland Hills, CA 91367

Cell: (676)

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October 15, 2010

Forbes: Are Contributions to 501(c)(4) Groups Subject to the Gift Tax?

Forbes, Hey, Secret Big Political Donor, Don't Forget The 35% Gift Tax, by William P. Barrett:

In the run-up to next month's elections, a big and controversial development has been the ability of tycoons to make unlimited political donations without any public disclosure whatsoever. This is done by giving the money to certain 501(c)(4) organizations—so-named for the tax-code provision establishing their status. Right now the best-known 501(c)(4) is Crossroads Grassroots Policy Strategies, or Grassroots GPS, set up by conservative political operative Karl Rove.

The Grassroots GPS Web site makes clear that such contributions are not deductible by the donor from personal federal income taxes. But that may not be the whole story from a tax perspective. A Los Angeles tax lawyer is telling clients such gifts could be subject to the federal gift tax, which is a hefty 35% this year but is scheduled to rise to a weightier 55% on January 1.

In a memo, Ofer Lion, a lawyer with Mitchell Silberberg & Knupp who specializes in nonprofit organizations, writes that unlike contributions to certain other political organizations, there is no gift-tax exemption written into federal law for contributions to 501(c)(4)'s, which the IRS officially classifies as social-welfare organizations but also are often used for lobbying. And that, he says, raises the possibility that down the road the IRS might come calling for the tax, plus interest, plus penalties. "The IRS may well find irresistible the potential revenue to be raised from assessing gift taxes on 501(c)(4) contributors," writes Lion.

A spokesman for Crossroads GPS, which is based in Washington, D.C., said Thursday he had never heard anything about a possible gift tax liability on 501(c)(4) contributions until Forbes called, and did not know if his organization had a written legal opinion specifying why there would be no liability for its donors. ...

But if news reports are correct, well-heeled individuals are making multi-million donations to 501(c)(4)s, which would blow through any yearly or lifetime exemptions. It's also not hard to imagine that the level of giving by tax-averse moguls might go way down if the threat of a gift-tax liability is not negated. ...

Lion writes that there is no indication now the IRS intends to collect the gift tax on 501(c)(4) contributions, and that there might be First Amendment issue if it tried. But he notes the agency wouldn't have a difficult research task.

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Obtained by Judicial Watch, Inc. via FOIA

While there is no public disclosure of donors to a 501(c)(4)—a presumed part of the appeal for many—federal law requires 501(c)(4)'s to reveal to the IRS the names of all donors of \$5,000 and up. The easy-to-use lists would be a "treasure trove" for the IRS, Lion declares.

which is a

Although I have not seen Mr. Lion's memo, he is certainly correct that the § 2501(a)(4) gift tax exclusion for contributions to political organizations does not apply to transfers to § 501(c)(4) groups like Crossroads GPS. But as we note in the Teacher's Manual accompanying our casebook (Federal Wealth Transfer Taxation (Foundation Press, 6th ed. 2009)), these types of political contributions should not be subject to the gift tax in any event because of the lack of true donative intent on the part of the contributors as developed in the case law prior to the enactment of § 2501(a)(4). See also Kip Dellinger, *Gift Tax on Political Contributions? A Lousy Idea!*, 78 Tax Notes 621 (1998).

Big 501(c)(4) Donations May Be Subject to a Big Gift Tax

 By Jesse Zwick 10/15/10 1:37 PM

Interesting new development in the shadowy world of 501(c)(4) spending. Forbes is reporting that a Los Angeles tax lawyer is advising clients that their contributions to 501(c)(4) groups could be subject to a weighty 35 percent "federal gift tax":

In a memo, Ofer Lion, a lawyer with Mitchell Silberberg & Knupp who specializes in nonprofit organizations, writes that unlike contributions to certain other political organizations, there is no gift-tax exemption written into federal law for contributions to 501(c)(4)'s, which the IRS officially classifies as social-welfare organizations but also are often used for lobbying. And that, he says, raises the possibility that down the road the Internal Revenue Service might come calling for the tax, plus interest, plus penalties. "The IRS may well find irresistible the potential revenue to be raised from assessing gift taxes on 501(c)(4) contributors," writes Lion.

Not every contribution qualifies for a gift tax — married couples, for instance, can give \$26,000 a year to as many recipients as they want without incurring a tax, and individual taxpayers also enjoy a lifetime exemption of \$1 million before incurring a tax. But if reports of multi-million dollar contributions by wealthy individuals to some 501(c)(4)s are correct, they would easily be surpassing the threshold and could be dissuaded by the tax from giving more.

Spokesmen for Crossroads GPS, a popular outside group spending heavily on behalf of Republicans this midterm cycle, and even the IRS, for that matter, appeared flummoxed by questions regarding a possible gift tax liability for contributions to 501(c)(4) groups. It's not everyday the IRS responds by saying, "That's an interesting issue," and asking for more time to look into the matter. To be continued, it seems.

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In a memo, Ofer Lion, a lawyer with Mitchell Silberberg & Knupp who specializes in nonprofit organizations, writes that unlike contributions to certain other political organizations, there is no gift-tax exemption written into federal law for contributions to 501(c)(4)'s, which the IRS officially classifies as social-welfare organizations but also are often used for lobbying. And that, he says, raises the possibility that down the road the Internal Revenue Service might come calling for the tax, plus interest, plus penalties. "The IRS may well find irresistible the potential revenue to be raised from assessing gift taxes on 501(c)(4) contributors," writes Lion.

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10/15/2011

IRS-JW-220-004792

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Management Level 2 - Supervisor/Manager [NBU]
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Work Address 6340 Variel
 Los Angeles, CA 91367-2514
 [Others at this address](#)
Mailing Address 6340 Variel
 Woodland Hills, CA 91367-2514
Work Phone (b)(6)
Email address lisa.m.piehl@irs.gov
Tour of Duty Mon-Fri 7:30am-4:00pm Weekends Off
Work Schedule F - Full time permanent
Organization code 935040401206000000 (50-40-75600)
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Manager Babb Anita M
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Addresses

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 4/18/11

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No manager

 ② Kenneth Bradley
 Grp Manager Telt

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Program manager

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call Monday 4/15/11

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