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IN FOCUS

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Candidates, Groups, and the Campaign Finance Environment: A Brief Overview

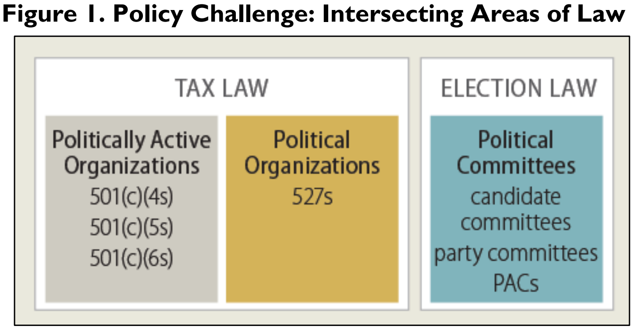
Once the purview of only political parties and candidates, the campaign environment now features several different kinds of entities, ranging from candidate campaigns to political parties, political action committees, and "outside" groups. Some organizations' activities are controversial amid debate over whether groups are primarily influencing campaigns or engaging in policy advocacy. This CRS "In Focus" highlights the various political entities that influence presidential and congressional elections, and which, in turn, shape the environment for candidates.

The Campaign Environment and Campaign Finance Policy

Historically, political parties and candidates were the major actors in campaigns. Party influence waned during the 20th century as voters and campaigns became more "candidate-centered." The landscape changed more substantially with the Supreme Court's 1976 *Buckley v. Valeo* decision, which lifted restrictions on independent expenditures (IEs) calling for election or defeat of candidates. *Buckley* marked the beginning of a distinction between contributions and expenditures that permitted groups other than parties and candidates to influence campaigns. More recently, the 2010 *Citizens United* ruling invalidated a prohibition on corporate and union IEs in federal (and other) elections. New groups, which found new ways to support and oppose candidates, emerged after both decisions.

Understanding the roles that different groups play in elections depends on two questions. First, are the groups regulated primarily by federal election law or federal tax law, as shown in **Figure 1**?

Figure 1. Policy Challenge: Intersecting Areas of Law



Source: Congressional Research Service.

Second, can the groups make contributions, expenditures, or both, as shown in **Figure 2** below? Most matters of recent debate in campaign finance policy concern the intersection of campaign finance law and tax law, as discussed throughout this CRS product. Where various groups and practices fit in election law, tax law, or both, determines what the groups can do, how they might affect campaigns, and which policy options are available to Congress and regulatory agencies.

Contributions to Candidates

Party committees, candidate committees, and traditional political action committees (PACs) are *political committees*, regulated primarily by the Federal Election Campaign Act (52 U.S.C. § 30101 *et seq.*; FECA). Along with contributions from individuals, most financial support for candidates comes from these political committees, subject to contribution limits. Parties and PACs can also spend independently to support or oppose candidates. In addition, parties can make limited coordinated expenditures in consultation with candidates. Candidate committees, party committees, and traditional PACs dominated the campaign finance landscape into the 1990s, and especially before *Citizens United* (2010).

Candidates (usually congressional candidates) can also rely on *leadership PACs* to support colleagues' campaigns. Originally associated with members of the House and Senate leadership, many officeholders now maintain leadership PACs. Similarly, congressional and presidential candidates can raise money through *joint fundraising committees* with parties or other candidates. Some believe that joint fundraising committees, leadership PACs, or both could become more important following the Supreme Court's 2014 *McCutcheon* decision, which lifted aggregate caps on individual contributions.

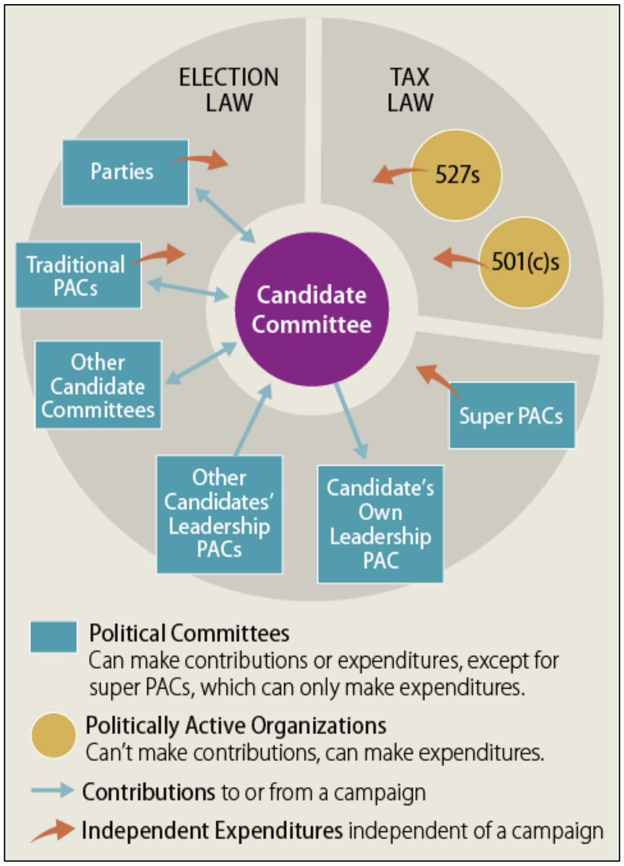
Independent Spending

Some groups that are prohibited from making campaign contributions can nonetheless influence elections through IEs. The three entities on the right side of **Figure 2** (super PACs, 501(c)s, and 527s) have been especially prominent since 2010. Super PACs developed shortly after *Citizens United* through a related appellate court ruling in *SpeechNow v. FEC*. Super PACs are political committees subject to FECA's reporting requirements, but may accept unlimited contributions. They may not contribute to campaigns. Super PACs are, therefore, arguably somewhat similar to two groups discussed below, 501(c) and 527 organizations.

501(c)s and 527s are primarily governed by tax law. They can accept unlimited contributions, but may not contribute to campaigns. 501(c)(4) social welfare groups, 501(c)(5) unions, and 501(c)(6) trade associations must have a "primary purpose" devoted to activities other than elections. These groups have engaged in campaign-related activities since at least the early 2000s. *Citizens United* removed lingering questions about whether the groups could make

IEs. All political committees fall under Section 527 for tax purposes, but as popularly used, the term "527" refers to entities that argue they are devoted to elections but are not political committees. They were especially active during the 2004 presidential campaign (most notably Swift Boat Veterans for Truth and America Coming Together). 527s faded in federal elections thereafter, perhaps due to FEC enforcement actions.

Figure 2. Major Political Entities in the Campaign Finance Environment



Source: Congressional Research Service.

Implications

The distinctions between election law and tax law, and between contributions and expenditures, determine which entities can do what in campaigns. If Congress chooses to examine whether the groups discussed here should be subject to more or less regulation, at least three other factors may be relevant.

- Coordination—FEC "coordination" regulations are designed to ensure that goods or services are not provided to campaigns in excess of FECA limits. In practice, establishing that prohibited coordination occurred is difficult. Existing regulations require satisfying a complex three-part test examining conduct, communications, and payment. Relatedly, some have suggested that Bipartisan Campaign Reform Act (BCRA; P.L. 107-155) provisions preclude some candidate fundraising for 501(c) and 527 activities affecting elections.

- Disclosure—Political committees must publicly report their donors to the FEC, as must 527s to the IRS. 501(c) groups' donors are not publicly reported, and the original sources of some contributions for IEs can avoid disclosure. Reporting requirements can affect donors' willingness to contribute to various groups.

- Exploratory Committees—FEC regulations permit potential candidates to "test the waters" by raising and spending limited funds while considering campaigns. Debate continues about whether some potential candidates' activities cross the line from testing to candidacy.

> Most recent debate in campaign finance policy concerns the intersection of campaign finance law and tax law. Where various groups and practices fit ... determines what the groups can do ... and which policy options are available.

For additional information, see CRS Report R41542, *The State of Campaign Finance Policy: Recent Developments and Issues for Congress*, by R. Sam Garrett.

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