



October 18, 2010

Tim Phillips  
President  
Americans for Prosperity  
2111 Wilson Ave., Suite 350  
Arlington, VA 22201

Dear Mr. Phillips,

As I'm sure you are aware, donations by individuals above \$13,000 in a calendar year to both 501(c)(4) organizations, like Americans for Prosperity, and 501(c)(6) trade associations are subject to a 35 percent gift tax. In addition, the identities of donors to 501(c)(4) or (c)(6)s are not disclosed to the public if the contribution is not earmarked for an electioneering communication or independent expenditure. In contrast, contributions to 527 organizations are not subject to the gift tax, but 527 organizations are required to disclose the identities of all who donate \$200 or more.

The choice for donors is simple. Give general support contributions to 501(c)(4)s or (c)(6)s, maintain anonymity, but pay a 35 percent gift tax; or, give to 527s, pay no gift tax, but have the donations disclosed.

The choice for organizations is also straightforward. One option is to hide your donors in the shadows, as you have chosen to do, by only raising money for general support or non-electioneering purposes, and trigger significant tax liabilities for your supporters. The other option is to operate in the open as a 527 committee with full disclosure and no tax liabilities for donors. You've chosen the former.

Collectively, newspaper reports estimate the spending by six conservative groups, including yours, will approach roughly \$250 million this election cycle. Given the scale of the fundraising and since your group and other organizations have refused to disclose your donors, it can only be assumed that a significant portion of this funding will come from individual donors in sums greater than \$13,000.

If we applied a conservative estimate that just half of this \$250 million was subject to the gift tax, the collective tax liabilities of those supporting your organization and others is as much as \$43 or \$44 million that should be paid to the federal treasury for the anonymity of those paying for your advertising.

Despite this, a spokesman for Crossroads GPS acknowledged to *Forbes* last week that he had never heard of the gift tax and that he wasn't sure what legal advice they have for donors.

This is a troubling response to a serious matter. Tens of millions of dollars in tax liabilities by your donors and the donors to six other major conservative groups is likely to be in question. We urge you to clarify what procedures your organization has in place to ensure that individual donors are informed about their significant tax obligations – tax obligations that would not apply should donors contribute to a 527 committee.

Given the size of your electoral campaigns and the secrecy with which you have funded it, we believe it would serve the public interest for your organization to disclose whether you advise donors to pay or not pay the gift tax. Donors to 501(c)(4)s and 501(c)(6)s should not be allowed to avoid paying taxes, and we hope that your organization has a clear policy to notify donors of their significant tax obligation.

I look forward to your response.

Sincerely,

A handwritten signature in cursive script that reads "David Donnelly". The signature is written in black ink and is positioned above the printed name.

David Donnelly  
Campaign Money Watch