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## Lobbying

### QUICK TIPS FOR TAX-EXEMPT ORGANIZATIONS



*Tax-exempt charitable organizations, other than private foundations, are generally permitted to engage in some lobbying activities. However, the Internal Revenue Code restricts the amount and type of lobbying activities of certain tax-exempt organizations. This guide is a quick reference to common lobbying activities and their potential impact on an organization's tax-exempt status. Please note that this guide does not discuss the more stringent restrictions on private foundation lobbying activities.*

### **501(C)(3) ORGANIZATIONS**

- A 501(c)(3) organization may lobby but only as an insubstantial part of its activities considering all facts and circumstances. “Insubstantial” is not defined by the IRS but is commonly considered to be significantly less than 20 percent, (i.e., 0 to 10 percent), of an organization's expenditures and activities (including efforts by volunteers).
- An annual lobbying election may be made which permits a 501(c)(3) to spend up to approximately 20 percent of its total exempt purpose expenditures each year on lobbying activities, up to \$1,000,000. The amount that can be expended on grassroots lobbying is limited to 25 percent of the foregoing amount. The expenditure of affiliated electing 501(c)(3) organizations are combined for purposes of these limitations.
- The time and money expended on “lobbying activities” is analyzed by the IRS in determining the amount of lobbying performed by an organization. Activities are classified as “lobbying activities” if they fall into one of two categories:

*Direct lobbying* is any attempt to influence legislation through communication with members or employees of a legislative body or any government employee or official if the communication refers to specific legislation and reflects a view on such legislation. A communication directed at an organization's members urging them to contact legislators, or legislative or governmental employees, is also considered direct lobbying.

*Grassroots lobbying* is any attempt to influence legislation by affecting the opinions of the public through a communication that refers to specific legislation and encourages the recipient to take action with respect to the legislation.

- Restrictions on lobbying activities are limited to efforts to influence legislation. “Legislation” includes state, local, and federal legislation, public referenda and ballot measures, but excludes executive actions such as issuing rules or regulations or actions by regulatory agencies
- The following are not considered to be attempting to influence legislation:
  - Providing testimony upon request to a governmental body or legislative committee
  - Conducting research and publishing of nonpartisan studies, analysis, or research on pending legislation. The publication may express a view on the legislation so long as it is widely distributed and contains a sufficiently full and fair exposition of the underlying facts to permit a member of the public to form an independent opinion on the subject. If the publication also includes a call to action, however, it is considered lobbying
  - Providing technical advice to a governmental body or legislative committee upon request
  - Communicating with members regarding legislation if there is no call-to-action associated with the communication

### **501(C)(4), (5) AND (6) TAX-EXEMPT ORGANIZATIONS**

- 501(c)(4), 501(c)(5), and 501(c)(6) tax-exempt organizations may engage in unlimited amounts of lobbying if it is in furtherance of the organization's exempt purposes. Depending on the type of members and the size of their dues, these organizations may be required to notify their members of the portion of members' dues that are allocated to lobbying expenditures, as such dues are not deductible by members as business expenses.

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In addition to tax-exempt issues discussed in this guide, state and federal election and lobbying laws regulate lobbying activities. Please consult your advisor before engaging in any political or lobbying activities.

Please see our publication, Political Activities, regarding political and campaign activities by tax-exempt organizations.

*This guide is a periodic publication of Gray Plant Mooty and should not be construed as legal advice or legal opinion on any specific facts or circumstances. The contents are intended for general information purposes only, and you are urged to consult your own lawyer concerning your situation and any specific legal questions you may have.*