



## Advocacy vs Lobbying

### All lobbying is advocacy, but not all advocacy is lobbying!

(Adapted from Washing Nonprofits and “The Board Advocacy Project”)

**Advocacy:** The act of arguing in favor of something, such as a cause idea or policy – Raising your voice! **There is no limit to the amount of non-lobbying advocacy your organization can do.**

**Lobbying:** (as defined by federal tax law): Any attempt to influence specific legislation. Lobbying can be done in two ways:

- ✓ Contacting or urging the public to contact policy makers for the purpose of proposing, supporting, or opposing legislation, or
- ✓ By advocating the adoption or rejection of legislation.

Lobbying involves three parts: **Communication** with a **policy maker** that **takes a position on specific, pending legislation.**

#### **Different kinds of Lobbying:**

**Grassroots lobbying:** Any attempt to influence legislation by affecting the opinion of the general public. In this case the organization encourages the public to lobby. The organization refers to a specific piece of legislation and provides information to the public on how to contact decision makers. Under certain circumstances mass media ads are an example of grassroots lobbying.

**Direct lobbying:** Any attempt to influence legislation through communication with any member or employee of a legislative body, or with any other government official who may participate in the formulation of legislation. A specific activity constitutes direct lobbying if:

- ✓ The principal purpose is to influence legislation,
- ✓ There is reference to a specific piece of legislation (even if the legislation is not currently under consideration), and
- ✓ A point of view is expressed.

#### **What are the key differences between advocacy and lobbying?**

1. There is no limit to the amount of non-lobbying advocacy your organization can do, while lobbying activities are restricted to a percentage of your operating budget (see formula on back of sheet.).
2. Lobbying involves attempts to influence *specific* legislation at the local, state, or federal level while advocacy is focused on educating about a specific issue.
3. Lobbying makes up a small portion of the total amount of advocacy efforts by most nonprofits.

**What do nonprofits have to do if they plan to be engaged in lobbying?** The IRS offers two choices:

1. “Insubstantial Part” test (vaguely defined)
  - a. Since 1934, the IRS dictates that “no substantial part of a charity’s activities... be carrying on propaganda or otherwise attempting to influence legislation. “Insubstantial” is not further defined.
  - b. Unfortunately, this has led many nonprofits to tiny amounts of lobbying.
2. “Expenditure” test or Section (501)(h) election (clearly defined).
  - a. Section h is recommended and easy to do – filing a simple one-page form.
  - b. Provides clear definitions and generous ceilings.
  - c. Can be done at any time!

## **More Information on the Two Kinds of Lobbying** (Adapted from Washington Nonprofits and “The Board Advocacy Project”)

### **Standard One - Insubstantial Part Test**

Organizations that choose not to file Section 501 (h) of the IRS Code are still subject to the IRS guidelines set forth in 1934. Known as the “insubstantial part test,” these guidelines require that “no substantial part of a charity’s activities consist of carrying on propaganda or otherwise attempting to influence legislation.” “Substantial” has never been fully defined. However, the courts have made clear that the definition of lobbying under the “insubstantial part test” is not only related to an expenditure of money. For example, activities conducted by volunteers to influence legislation must be considered lobbying.

### **Standard Two - Expenditure Test**

Those charitable organizations that choose the Section 501(h) election must apply the “expenditure test.” Under this standard, lobbying only occurs when there is an expenditure of money. It sets forth specific dollar limits, calculated as a percentage of a charity’s total exempt purpose expenditures.

These limits are:

- 20% of the first \$500,000 of exempt purpose expenditures, plus
- 15% of the next \$500,000 of exempt purpose expenditures, plus
- 10% of the next \$500,000 of exempt purpose expenditures, plus
- 5% of the remaining exempt purposes expenditures, up to a total cap of \$1 million.

The organization’s grassroots lobbying efforts (described in greater detail below) are limited to 25% of the organization’s total lobbying activities as calculated using the formula above. Even if the organization chooses to spend very little on direct lobbying efforts, it may still spend up to 25% of the total limit under the law on grassroots lobbying.