

Public Charities Can Lobby

Guidelines for 501(c)(3) Public Charities

501(c)(3) public charities (including houses of worship and public foundations) can lobby within the generous limits allowed by federal law. How much lobbying the organization can do depends upon which of the two tests the organization uses to measure its lobbying – the “501(h) expenditure” test or the [“insubstantial part” test](#). In issuing regulations on lobbying, the Internal Revenue Service state that under either test public charities “may lobby freely” so long as lobbying is within specified limits.¹

Electing 501(h) Can Maximize Organization’s Lobbying Limit

Most organizations will be able to engage in more lobbying by electing to measure its lobbying under Section 501(h) of the tax code, because:

- The 501(h) expenditure test provides more generous lobbying limits than the insubstantial part test. 501(h) provides a clear dollar limit on the amount of money an electing public charity can spend on lobbying. The limits vary depending on the size of the organization’s budget. Organizations that spend \$500,000 or less per year can spend as much as 20% of their budget on lobbying. You can use our [online calculator](#) to determine your organization’s lobbying limit.
- The organization counts only expenditures as lobbying. Cost-free activities, such as volunteer time, do not count against the organization’s lobbying limits because the organization does not pay for these activities.
- An electing 501(c)(3) may spend up to a quarter of its overall lobbying limit on [grassroots lobbying](#) (urging the general public to communicate the organization’s position on legislation to legislators) or up to the entire amount on [direct lobbying](#) (telling legislators or their staff to support or oppose legislation or urging the organization’s members to do so).
- Organizations using the 501(h) expenditure test can take advantage of clearer definitions of lobbying, including [specific exceptions](#) to what counts as lobbying.
- Under the 501(h) test, charities may allocate certain expenditures that have both lobbying and non-lobbying purposes. For example, if an executive director flies to Washington, D.C. for a four day trip, three days of which will be spent at an educational conference and the fourth day spent lobbying, it is usually appropriate to count 25 percent of the costs the 501(c)(3) paid for travel expenses as lobbying costs.

A 501(c)(3) may elect the 501(h) expenditure test to govern its lobbying activity by [filing the simple Form 5768](#) once with the IRS.

Working on, or contributing to, a ballot measure campaign is permissible lobbying activity under these rules. 501(c)(3) organizations are able to engage in a wide range of advocacy regarding these ballot measures, so long as they do not exceed the organization’s lobbying limit and do not [constitute intervention](#) in a candidate campaign.

¹ Lobbying by Public Charities; Lobbying by Private Foundations, 55 Fed. Reg. 35,579, 35,584 (Aug. 31, 1990). [Private foundations](#) are subject to a prohibitive tax on any lobbying expenditures they make.

Insubstantial Part Test Filers Can Still Lobby

The [insubstantial part test](#) is most useful for churches (which is how the IRS refers to all houses of worship), which cannot make the 501(h) election, and for very large organizations with budgets over \$17 million per year, which may be able to do more lobbying under the insubstantial part test. However, some organizations choose not to use the 501(h) expenditure test. Even if the organization has not elected 501(h), it may still lobby as long as its lobbying activities do not become a “substantial” part of the 501(c)(3)’s overall activities. The insubstantial part test defines lobbying as “carrying on propaganda, or otherwise attempting to influence legislation” and includes any communication that “contacts, or urges the public to contact, members of a legislative body for the purpose of proposing, supporting, or opposing legislation or advocates for the adoption or rejection of legislation.”

If a 501(c)(3) wishes to engage in more lobbying than is permitted under either the 501(h) expenditure test or the insubstantial part test, the organization may consider creating an [affiliated 501\(c\)\(4\)](#) organization, which can engage in an unlimited amount of lobbying.

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