

Guidance on Lobbying Limitations for 501(c)(3) Entities

Not all advocacy efforts constitute “lobbying.” In many cases information can be provided that does not cross the line into lobbying. However, providing information to association members with a view on pending legislation and a call to action on contacting legislators with respect to that legislation is classic grass roots lobbying.

A 501(c)(3) organization may not engage in more than an insubstantial amount of lobbying otherwise it jeopardizes its 501(c)(3) status. There is a substantiality test. This is a subjective analysis and looks at the overall activities of the organization in relation to the lobbying activities. If the lobbying activities are insubstantial in relation to the organization’s overall activities then there is no problem and no jeopardy to the 501(c)(3) status. An alternative test is what is called the expenditures test and requires the organization to make what is called the 501(h) election and specifically list all of its lobbying expenditures on the tax return.

It is the totality of lobbying activities compared to the totality of overall activities of the entity that determines whether there is more than an insubstantial amount of lobbying. In the case of AAFCS, national lobbying activities would be viewed in comparison to all national association activities. Since state affiliates are independent relative to tax code, state level lobbying activities would be viewed in comparison to all activities of that state affiliate.