



# How to Lobby Without Breaking the Law

*Hint: Your computer makes a great tool!*

BY D. BENSON TESDAHL

**S**urprisingly, the computer is still largely untapped as a lobbying tool, although it has many advantages. It is a fast, easy way to spread your message across the country. Also, it keeps your lobbying costs well within the limits of the law—always a concern for nonprofits.

Here's how it works.

## First, a Word About Lobbying.

Lobbying is often the best way to fulfill your organization's mission. When you lobby, you try to persuade legislators to enact legislature favorable to your cause. The IRS recognizes two types of lobbying:

- "direct lobbying," in which you contact legislators directly
- "grass roots lobbying," in which you contact the general public.

The IRS regulates the amount of lobbying your organization can do. Unless you ask to be governed by the "expenditure test" rules, the IRS will automatically use a so-called "substantial part test." Under this test, you will lose your tax-exempt status if, in any year, lobbying activities account for a "substantial part" of your organization's activities. Unfortunately, the IRS has never given a clear definition of the term

"substantial part." Instead, IRS officials look at such facts as how much time and money your organization spent on lobbying. Because the substantial part test is so vague, it is almost impossible for you to know when you are approaching or exceeding your lobbying limit.

Therefore, you are well advised to elect the more concrete "expenditure test." To do so, you simply fill out an IRS form asking to be governed by expenditure test rules. Once you've sent the form to the IRS, the expenditure test will apply to your lobbying for that entire tax year and every year thereafter.

The expenditure test offers several advantages over the substantial part test:

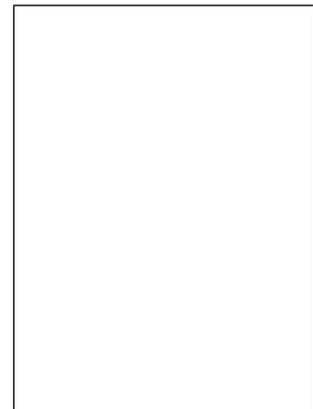
1. The permissible amount of lobbying is determined solely by how much money you spend.
2. If you do exceed the expense limit, the IRS will merely tax you rather than revoking your tax-exempt status.
3. These rules are more generous than those for the substantial part test. For example, if you publicly praise a bill, it is *not* considered "grass roots lobbying" unless you call on the public to contact legislators about the bill. Also, these rules *exclude* from lobbying such activities as lobbying by volunteers.

To understand why these advantages are so important, let's look briefly at how the IRS figures these limits.

## What Is the Lobbying Formula?

Let's assume that you have been wise enough to apply for expenditure test rules. Under these regulations, the IRS uses a formula to calculate your lobbying limits. It bases this formula on your yearly expenditures for all charitable purposes (called "exempt purpose expenditures").

The rule is that your total lobbying expenditures must not exceed 20% of the first \$500,000 of your exempt purpose expenditures, plus a sliding scale percentage thereafter, with a total lobbying limit of no more than \$1 million a



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year. The grass roots lobbying limit is 25% of the total limit.

If you exceed either of these expenditure limits, you will have to pay a 25% tax on the excess. If you exceed either limit by 150% over four years, you will lose your tax-exempt status altogether.

Say, for example, that you spend \$500,000 on charitable purposes this year. Under these limits, you can spend \$100,000 on total (direct and grass roots) lobbying. But your grass roots lobbying can never exceed 25% of that total (in this case \$25,000).

As this example shows, grass roots lobbying limits are quite restrictive. You can easily exceed them if you don't keep careful records.

you reach more people, at lower cost, than any other technology.

When you put your lobbying message on the Internet, millions of people can read it. And you won't be likely to exceed your lobbying expense limit. You need only report the modest Internet access fee, a pro-rated portion of salaries for time spent drafting your message, and perhaps a small portion of overhead expenses. This total will be a fraction of the cost of sending the same message by mail. Moreover, if you have volunteers prepare your message, you can reduce your grass roots lobbying costs even more.

**Your Internet expenses will be a fraction of the cost of sending the same message by mail.**

## Spread the Word!

In this computer age, it makes sense to use technology to its utmost advantage. Most charities, while they use computers for drafting documents and tracking data, don't realize how invaluable computers can be for spreading the word.

Whether you do a lot of lobbying for your cause, or would just like to get the word out to the public on occasion, don't forget the Internet. It's a cost-effective way to promote your ideas, while keeping your lobbying costs within lawful limits. ■

### Selected References \*

Hopkins, Bruce R., *A Legal Guide to Starting and Managing a Nonprofit Organization*.

Muehrcke, Jill, ed., *Law and Taxation, Leadership Series*, Volumes I and II.

Smucker, Bob, *The Nonprofit Lobbying Guide*.

\* To order, see page 30.

## How Can the Internet Help?

Clearly, the expenditure test is very useful if you can keep your lobbying costs low. That's because this test looks solely at how much money you spend on lobbying. It ignores other factors, such as how much effort you put into lobbying or how much time unpaid volunteers spend lobbying.

Even under the expenditure test, however, you must be careful. Remember, the limit for grass roots lobbying is relatively small. Suppose, for instance, that you want to ask the public to contact their legislators regarding a piece of legislation. Such a mass mailing constitutes grass roots lobbying. You'll have to keep track of your expenses, which will include mailing lists, postage, envelopes, and staff salaries for time spent preparing the message. Such costs can add up quickly.

An alternative which has not yet caught on, but which offers great promise, is to use the Internet. This giant, worldwide computer network lets