

MARCH 8, 2023

Charities Can Join the Looming Debt Ceiling Fight!

The President's budget proposal, due to be released tomorrow, will be the first official salvo in what promises to be an intense Congressional battle over the federal debt ceiling. If Congress fails to raise the nation's borrowing limit, which will kick in sometime this summer, the effect on the nation's economy could be swift and devastating, according to a new warning issued [yesterday](#).

The impact of economic downturns falls most heavily on those with the least resilience, which are also the communities that many charities exist to serve. As always, charities (i.e., nonprofits exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code) will be there to help people in need.

But charities don't have to wait for a crisis before getting involved. Federal tax law gives charities tremendous power to help [prevent](#) a crisis in the first place, by advocating on behalf of their constituencies.

In other words, charities can lobby loudly and proudly for legislative action important to their communities and consistent with their missions.

Most charities are eligible to use a potent, voluntary tool, called the "501(h) election" that precisely defines how much lobbying the organization can do and exactly what activities count against that limit. (The 501(h) election is not available to some types of charities, like churches or private foundations.) For most organizations, the amount of lobbying permitted is surprisingly generous: small organizations can spend up to 20% of their "exempt purposes expenditures" (which typically includes most of their expenditures in a given tax year) directly telling legislators how to vote on specific bills and/or encouraging members of the public to do so (although this public engagement is subject to a lower sub-limit). As organizations grow, the percentage limit gets smaller, but the amount they can spend on lobbying in a given tax year continues to increase, up to a maximum of \$1M per year for the biggest organizations (over \$17M in exempt purposes expenditures).

A charity that wants to take advantage of the benefits of 501(h) (there are virtually no practical down-sides in most cases!) in its current tax year can do so by filing [IRS Form 5768](#) before the end of the tax year. That gives the charity access to 501(h)'s permissive and protective rules in the current tax year, [even if the charity engages in lobbying before filing the form](#).

Even charities (other than private foundations) that don't, or can't, take advantage of

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Nonprofit Law Matters looks at legal issues in the nonprofit and tax-exempt organizations world. Written by the attorneys and paralegals of Adler & Colvin, it provides updates and analysis regarding philanthropy, charity, and other exempt organization issues.

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the 501(h) election can still lobby, so long as lobbying is not a “substantial part” of their overall activities.

That vague limit can be difficult to measure, but the important point is that any public charity can write a letter to members of Congress urging them to support or oppose legislation, and most can do a whole lot more, without risk of adverse tax consequences.

When things go wrong, charities always step up to lessen the impact on those most affected. But charities also have more power than they may realize to prevent that impact in the first place. The better your knowledge of that power, the more forcefully you can enter the arena.