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In Honor of National Public Health Week: Advocacy and Lobbying of Public Health Organizations After Section 503 of the Consolidated Appropriations Act of 2012 (HR 2055)

It's [National Public Health Week](#), which has us thinking about the good works of our many 501(c)(3) clients who, in one way or another, work to alleviate public health concerns. We spend lots of time helping these organizations use the opportunities that the tax code provides to maximize the reach and impact of their advocacy, including lobbying for laws that help prevent public health threats including (among many others) obesity, gun violence, and the health consequences of poverty. (Yes, 501(c)(3) public charities can lobby – often more than they think!)

However, a possible new obstacle has recently landed in their path. In December 2011, Congress passed the [Consolidated Appropriations Act of 2012 \(HR 2055\)](#), which appropriated federal funds for the fiscal year that began last October. Every year the appropriations act includes some provisions purporting to restrict the use of appropriated funds for lobbying under certain circumstances. (The [GAO reports](#) that it has always interpreted these constraints narrowly.)

This year, for the first time, Section 503 of the Act, which applies to appropriations for the Departments of Labor, Health and Human Services (HHS), and Education (and related agencies) included a provision prohibiting the use of appropriated funds for “any activity to advocate or promote any proposed, pending or future Federal, State or local tax increase, or any proposed, pending or future requirement or restriction on any legal consumer product, including its sale or marketing, including but not limited to the advocacy or promotion of gun control.”

Public health organizations that receive federal funding to support prevention of public health problems are concerned that this extremely broad and vague new constraint on the use of federal funds may undermine their ability to accomplish the improvements and protections that the funding they receive was intended to promote. Indeed, I'm already hearing stories from across the country suggesting that the new language is severely chilling advocacy efforts far beyond activities aimed at changing laws. Some public health officials, advocates, and even academics who have received funding subject to the new Section 503 language have become unsure about what they can say and do. Time will tell how the new language is implemented, but there is little doubt of its immediate chilling effect on the ubiquitous public health prevention efforts that rely in part on federal funds.

Nonetheless, public health organizations can use the opportunities that the tax code provides to advocate for the removal of this restrictive language, as well as aggressively to promote (perhaps with non-federal dollars) beneficial solutions to

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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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pressing public health concerns. The key to success in these efforts is understanding the rules governing lobbying, and having the confidence and support to deploy them in the most advantageous way.