

Tax Treatment of Lobbying & Political Activities


Nonprofits that engage, or are thinking about engaging, in lobbying and political activities need to know what the tax laws will allow. Charities are limited by 501(c)(3) in the amount of legislative lobbying they may conduct, and absolutely prohibited from participating or intervening in an election for public office, while organizations exempt under other sections of the Internal Revenue Code like social welfare organizations, unions, and trade associations are unlimited in lobbying and may engage in some candidate electoral activity (but may be subject to tax on expenditures for these purposes). Private foundations are prohibited from lobbying entirely, and must ensure any lobbying conducted by their grantees is not attributed to them. As one of a few centers of legal expertise in the United States, Adler & Colvin has built a national reputation for advising charities and other nonprofits about the complex tax laws that regulate lobbying and political activities they conduct. We coordinate our representation with election law attorneys as needed.


AREAS OF FOCUS

- › Safe ways nonprofits may advocate for social change.
- › Ballot measure activities, which could subject a nonprofit group to campaign disclosure rules in addition to tax laws limits and disclosures.
- › Charities relating to, educating the public about, and commenting upon, candidates for public office.
- › Grants and donations to organizations that may lobby or activate voters.
- › Protecting private foundation funders from attribution of grantees' lobbying.
- › Using private foundation funding in public policy work.
- › Grass roots lobbying.
- › The Section 501(h) lobbying expenditure election, an IRS test that sets specific dollar limits a charity is allowed to spend on lobbying.
- › The "no substantial part" test for lobbying, an IRS test for charities that do not elect to have dollar lobbying limits under Section 501(h).
- › The "primary purpose test" that 501(c)(4), 501(c)(5), and 501(c)(6) organizations must meet in order to retain their exemptions.
- › The member notice of nondeductible dues or proxy tax requirements under Section 6033(3) that apply to many 501(c)(4), 501(c)(5), and 501(c)(6) organizations.
- › Tax issues for political organizations, such as the tax-exempt Section 527 groups created primarily to influence nominations, candidate elections, and appointments.

CONTACT INFORMATION

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REPRESENTATIVE CLIENTS

- › California Calls
- › California Hospital Association
- › Elbridge Stuart Foundation
- › Equal Voice Action
- › Giffords Law Center to Prevent Gun Violence
- › Liberty Hill Foundation
- › MomsRising
- › Moveon.org
- › Planned Parenthood Affiliates of California, and local affiliates
- › PolicyLink
- › Public Health Advocates
- › Save the Bay (Save San Francisco Bay Association)
- › The California Endowment
- › The James Irvine Foundation

PRACTICING ATTORNEYS

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- › Tandems, families of nonprofit entities that share the same brand and are formed specifically to engage in a full range of political activities using 501(c)(3), 501(c)(4) and 527 tax exemptions.