

organizations may be treated as one organization for purposes of determining nontaxable amounts. §4911(c)(2) defines “lobbying nontaxable amounts” as the following: The lobbying nontaxable amount for any organization for any taxable year is the lesser of (A) \$1,000,000 or (B) the amount determined under the following table: (See Figure 16B)

“Exempt-purpose expenditures” means “with respect to any organization for any taxable year, the total of the amounts paid or incurred by such organization to accomplish purposes described in §170(c)(2)(B) (relating to religious, educational, etc. purposes).” (IRC §4911(e)(1)(A), (B)) The “grassroots nontaxable amount” is defined in §4911(c)(4) as “25 percent of the lobbying nontaxable amount (determined under paragraph (2)) for such organization for such taxable year.” An organization’s lobbying efforts on a ballot question are considered direct lobbying since the general public votes directly on the legislative question.

Example: Using the chart in Figure 16B, if the amount the organization expends carrying out their exempt purpose is \$1.25 million, the amount they are allowed to expend on lobbying is \$200,000; of that amount, the organization can spend \$50,000 on grassroots lobbying. The total allowable lobbying expenses are calculated as follows: \$175,000 + 10% of \$250,000 (\$25,000), totalling \$200,000 that the organization is allowed to spend on lobbying without assessment of excise taxes. Of that amount, the organization is allowed to spend 25% on grassroots lobbying. This amount is calculated as follows: \$43,750 + 2.5% of the excess over \$1 million of expenses to carry out the organization’s program, i.e., 2.5% of \$250,000. Therefore, the total amount allowed for grassroots lobbying is \$43,750 + \$6,250. The organization can expend \$50,000 on grassroots lobbying without assessment of excise taxes.

Figure 16B

ALLOWABLE LOBBYING EXPENDITURES*

Exempt-Purpose Expenditures	Total Allowable Lobbying Expenditures	Amount of Lobbying Expenditures Permitted for Grassroots Lobbying
Up to \$500,000	20% of exempt-purpose expenditures	25%
\$500,000 – \$1 million	\$100,000 + 15% of excess over \$500,000	\$25,000 + 3.75% of excess over \$500,000
\$1 million – \$1.5 million	\$175,000 + 10% of excess over \$1 million	\$43,750 + 2.5% of excess over \$1 million
\$1.5 million – \$17 million	\$225,000 + 5% of excess over \$1.5 million	\$56,250 + 1.25% of excess over \$1.5 million
Over \$17 million	\$1 million	\$250,000

*Organizations will be assessed excise taxes on amounts exceeding these limits.

ORGANIZATIONS NOT MAKING §501(h) ELECTION AND THE SUBSTANTIALITY TEST

Even for organizations that have not elected the expenditure test, §501(h) may be useful in providing guidance for determining whether their lobbying activities constitute a substantial part of their total activities. To determine whether its lobbying efforts