



DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

January 28, 2013

Number: **2013-0002**  
Release Date: 3/29/2013

UIL: 501.03-00

The Honorable Robert B. Aderholt  
U.S. House of Representatives  
Washington, DC 20515

Dear Mr. Aderholt:

I am responding to your inquiry dated January 4, 2013, on behalf of your constituent, . asked about the ability of public charities to engage in lobbying activities.

As you requested, I responded directly to . I am enclosing a copy of my response.

I hope this information is helpful. If you have any questions, please contact me at ( ) or (Identification Number ) at ( ) .

Sincerely,

Dave Fish for

Lois G. Lerner  
Director, Exempt Organizations

Enclosure



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Person to Contact and ID Number:

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Contact Telephone Number:

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Dear \*\*\*\*\*:

This letter responds to your email dated November 8, 2012, to Representative Robert Aderholt. You asked about the extent to which a public charity described in section 501(c)(3) of the Internal Revenue Code may engage in lobbying activities. You also asked under what circumstances an individual is considered as acting on behalf of the charity with regard to lobbying, rather than in some other capacity. Representative Aderholt has asked us to respond to you directly.

In general, a public charity will not qualify for tax-exempt status if a substantial part of its activities is attempting to influence legislation. We find that a public charity is attempting to influence legislation if it contacts, or urges the public to contact, members or employees of a legislative body for the purpose of proposing, supporting or opposing legislation, or if the charity advocates the adoption or rejection of legislation. A public charity may engage in some lobbying, but if it engages in too much lobbying, it risks the imposition of excise taxes or loss of its tax-exempt status. A charity may, however, become involved in issues of public policy without the activity being considered lobbying. For example, a public charity may conduct educational meetings, prepare and distribute educational materials, or otherwise consider public policy issues in an educational manner without jeopardizing its tax-exempt status.

Lobbying activity may be measured under either the “substantial part” test or the “expenditure” test. Whether lobbying constitutes a substantial part of a charity’s overall activities is based on all the pertinent facts and circumstances in each case. We consider a variety of factors, including the expenditures and the time the organization devotes (by both compensated and volunteer workers) to the activity, when we determine whether the lobbying activity is substantial.

Certain organizations may elect the expenditure test under section 501(h) as an alternative method for measuring lobbying activity. Under the expenditure test, the extent of an organization's lobbying activity will not jeopardize its tax-exempt status, provided its expenditures, related to such activity, do not normally exceed a specified limit. This limit is generally based upon the size of the organization and may not exceed \$1,000,000.

We determine whether an individual engaged in lobbying on behalf of a charity or in some other capacity on a case-by-case basis, in light of all relevant facts and circumstances.

For more information regarding a charity's ability to engage in lobbying activities, please see Publication 557, *Tax-Exempt Status for Your Organization*, which you can find at <http://www.irs.gov/pub/irs-pdf/p557.pdf>.

You stated that you believe several public charities are engaged in too much lobbying, although you do not name any particular charities. We maintain an ongoing examination program to ensure exempt organizations continue to meet the requirements for tax-exempt status. When we receive information about an organization that raises questions about its continued exempt status or compliance with the tax laws, we forward the information to our Dallas office to determine if it warrants an examination or other action. If you have information about an exempt organization you want to submit for our consideration, please send it to:

IRS – EO Classification  
1100 Commerce Street  
MC 4910 DAL  
Dallas, TX 75242

The Internal Revenue Code includes taxpayer privacy provisions the Congress enacted to protect the privacy of tax returns and tax return information of all taxpayers. Therefore, I cannot comment on what action, if any, we take on the information provided.

This letter is for informational purposes only and is intended to provide general statements of well-defined law. It is not a ruling and may not be relied on as such. See Revenue Procedure 2013-4, 2013-1 Internal Revenue Bulletin 126. We will make this letter available for public inspection. We will delete any name, address, and other identifying information as appropriate under the Freedom of Information Act. See Announcement 2000-2, 2000-2 I.R.B. 295. If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

David L. Fish  
Manager, Exempt Organizations  
Guidance

cc: The Honorable Robert B. Aderhold