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HOW TO ESTIMATE WHETHER YOUR ORGANIZATION MIGHT BE CLOSE TO THE MAXIMUM IT MAY SPEND ON LOBBYING UNDER THE 1976 LOBBY LAW

Nonprofits that lobby sometimes wonder whether they are coming close to the permissible limits of lobbying activity that they may conduct. If your group has elected to come under the 1976 lobby law (see “The 1976 Law Governing Nonprofit Lobbying”), it’s relatively easy to make an educated estimate about whether your organization is approaching the maximum it may spend on lobbying.* The estimate is not difficult because the 1976 lobby law is strictly an expenditure test. That is, under that law, the only time lobbying takes place is when your organization is spending money on a lobbying activity. It’s also important to note that under the 1976 law, the lobbying expenditure limits are quite liberal (see below). Our research shows that the vast majority of electing organizations do not come close to the limits.

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Organizations that have not made the election are under the “no substantial part” test. This is a vague term that has never been definitively defined in the law. If your group is subject to this rule it’s impossible to be certain how much lobbying you may conduct, so making an estimate is more difficult.

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For organizations that have elected, the following information should be helpful to you in making an estimate of your lobbying expenditures to determine whether you might be coming close to the expenditure limits.

Make a rough calculation of the maximum amount you may spend on lobbying for the year, using the information in the chart below. Generally, organizations that elect the 1976 law may spend 20% of the first \$500,000 of their annual expenditures on lobbying (\$100,000), 15% of the next \$500,000 and so on up to \$1 million a year. Equally important, there are eight critically important legislation related activities, which nonprofits may conduct, that are not considered lobbying by the IRS.

Understanding what constitutes lobbying under the 1976 law is not difficult. In general, you are lobbying when you state your position on specific legislation to legislators or other government employees who participate in the formulation of legislation, or urge your members to do so (direct lobbying). In addition, you are lobbying when you state your position to the general public and ask the general public to contact legislators or other government employees who participate in the formulation of legislation (grassroots lobbying).

The chart that follows shows how much you may spend on lobbying, depending on the size of your organization’s annual exempt purpose expenditures.**

The amount that may be spent on grassroots lobbying is limited to one-quarter of the amount you are permitted to spend on direct lobbying. So, if your organization’s total direct lobbying expenditures limit is \$100,000, then it may spend the full \$100,000 on direct lobbying or it may spend up to \$25,000 on grassroots lobbying and the rest on direct lobbying. (over)

* More information is available on the 1976 lobby law from the Center for Lobbying in the Public Interest’s Web site at www.clpi.org.
** Strictly speaking, the base of a nonprofit’s exempt purpose expenditures excludes investment management, unrelated businesses, and certain fundraising costs.

After calculating the amount your organization can spend on lobbying using the Lobbying Expenditure Chart, it may become immediately obvious to you that your expenditures are well under the permissible limits. For example, if your

permissible lobbying limits are \$200,000 and your rough estimate of *total* costs for your government relations office including staff and related expenses are, say \$170,000, then you need not be overly concerned about the lobbying expenditure limits.

Lobbying Ceilings Under the 1976 Lobby Law

<i>Annual Exempt-Purpose Expenditures</i>	<i>Total Direct Lobbying Expenditures Ceiling</i>	<i>Total Grassroots Lobbying Expenditures Ceiling</i>
Up to \$500,000	20% of exempt-purpose expenditures up to \$100,000	One-quarter of the total direct lobbying expenditures ceiling
\$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