

Funding Advocacy: A Roadmap for Private Foundations

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Agenda

- Overview of foundation advocacy funding
- Limits on grantmaking for lobbying
- Limits on funding voter registration
- Funding other types of advocacy and advocacy by the foundation itself

Foundations and Advocacy

- All 501(c)(3)s, including private foundations, are prohibited from supporting or opposing candidates for office
 - Broadly interpreted in light of all of the “facts and circumstances”
- 501(c)(3) private foundations (unlike public charities) are prohibited from expending funds for lobbying
 - Nonetheless, private foundations may make grants that can be used for lobbying
 - Grantmakers that are public charities (e.g. community foundations) may expend funds for lobbying
- Private foundations a subject to limits on funding voter registration drives
 - But there are no similar limits on funding get-out-the-vote (GOTV) or other types of nonpartisan civic engagement
- Foundations may fund and engage in other types of advocacy

Excise Taxes Under IRC § 4945

- Taxes under IRC § 4945 on prohibited foundation support for lobbying, electioneering, and non-4945(f)-compliant voter registration drives
 - On private foundation:
 - 10% of amount of taxable expenditure
 - Plus 100% of expenditure if not corrected
 - On foundation managers who knowingly and willfully approved the expenditure
 - 2.5% of taxable expenditure
 - Plus 50% of expenditure if fails to agree with correction
- Correction entails recovery of funds, if possible, and additional steps to prevent further misuse of funds



What is Lobbying?

Direct Lobbying	Grassroots Lobbying
Communication	Communication
Expressing a View	Expressing a View
Specific Legislation	Specific Legislation
Legislator (or other official or staffer involved in legislation)	General Public (Not “members”)
	Call to Action

Foundations are allowed to rely on these definitions, which were created for charities that opt to measure their lobbying under the 501(h) expenditure test

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