

**PRESENTED AT**

34<sup>th</sup> Annual Nonprofit Organizations Institute

January 12, 2017  
Austin, Texas

**After the Election Advocacy and  
Exploring the Boundaries**

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# After the Election Advocacy and Exploring the Boundaries

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## Agenda

- Lobbying rules for 501(c)(3) public charities
  - 501(h) expenditure test
  - “No substantial part” test
  - Note on “direct action” advocacy efforts
- Foundation restrictions on lobbying
- Tax rules for non-501(c)(3) lobbying

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## Public Charity Lobbying Limits: Two Alternative Tests

- “No Substantial Part” Test: No substantial part of a charity’s activities may be lobbying
  - This is the default test
- 501(h) Expenditure Test...



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## 501(h) Expenditure Test

- Clear dollar-based limits
  - Overall limit: 20% of first \$500K expenditures, then lesser percentages
  - Grassroots limit: 25% of overall limit
  - Maximum lobbying: \$1 million (\$250,000 grassroots)
- Clear definitions of lobbying...



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## 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

Although not allowed to lobby themselves, private foundations may also use these rules to determine whether an activity falls outside of the definition of "lobbying," making it a permissible foundation activity

## Key Point: Specific Legislation

More than just legislation that has been introduced...

- A bill
- Proposed legislation (e.g. model bills)
- Draft amendments
- Specific legislative policy proposals
- Congressional resolutions
- Treaties requiring Senate ratification
- Ballot measures

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First appeared as part of the conference materials for the  
34<sup>th</sup> Annual Nonprofit Organizations Institute session  
"After the Election Advocacy and Exploring the Boundaries"