

An exempt organization is not engaged in prohibited legislative activity if, at the request of a legislative committee, a representative testifies as an expert witness on pending legislation affecting the organization.

The Internal Revenue Service has been asked whether, in the circumstances described below, an organization has attempted to influence legislation within the meaning of section 501(c)(3) of the Internal Revenue Code of 1954.

The organization is a university exempt from Federal income tax as an educational organization described in section 501(c)(3) of the Code. It maintains a biology research department that has achieved national prominence. On occasion the university is asked by a committee of the United States Congress to furnish a representative to provide expert testimony on pending legislation that bears on biological research. These appearances by experts from the university are not at the university's instigation, but only at the request of the committee.

In connection with the committee's hearings into a bill dealing with the use of animals in laboratory research, the university was asked to send someone who could advise the committee on how the legislation would affect research being conducted by its biology department. The head of the biology department, a well known scholar in the field of biological research, responded to the committee's official request, appeared before it, and testified that the bill as drafted would inhibit his department's research program.

Section 501(c)(3) of the Code provides that an organization exempt under its provisions is one that is organized and operated exclusively for educational purposes, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation.

Section 1.501(c)(3)-1(c)(3) of the Income Tax Regulations provides that an organization will be regarded as attempting to influence legislation if it contacts, or urges the public to contact, members of a legislative body for the purpose of proposing, supporting, or opposing legislation, or if it advocates the adoption or rejection of legislation.

In the instant case the university did not initiate any action with respect to pending legislation, but merely responded to an official request from a Congressional committee to testify. It cannot, therefore, be described as attempting to influence legislation by contacting members of a legislative body to propose, support, or oppose legislation or by advocating the adoption or rejection of legislation. The attempts to influence legislation as described in the regulations imply an affirmative act and require something more than a mere passive response to a

Committee invitation. Moreover, while the legislative history of section 501(c)(3) of the Code is silent on this subject, it is unlikely that Congress, in framing the language of this provision, intended to deny itself access to the best technical expertise available on any matter with which it concerns itself.

Accordingly, it is held that this organization is not engaging in legislative activity within the meaning of section 501(c)(3) of the Code.