INTERNAL REVENUE SERVICE
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Dear Sir or Madam:

This is in response to a letter, dated April 18, 2000, submitted on your behalf by your attorneys, in which you request information on questions related to lobbying by publicly supported charitable organizations recognized as exempt from federal income tax because they are described in section 501(c)(3) of the Internal Revenue Code. Your questions and our responses are set forth below.

1. Is lobbying by section 501(c)(3) organizations permissible under federal tax laws?

Yes (except for private foundations under most circumstances).

2. How much lobbying may a "public charity" (a section 501(c)(3) organization other than a private foundation or an organization testing for public safety) conduct?

There are two sets of rules, and with the exception of churches, public charities can choose which set to follow. One rule is that no substantial part of the organization's activities can be lobbying. The alternative rule, that an organization must affirmatively elect, provides for sliding scales (up to $1,000,000 on total lobbying and up to $250,000 on grass roots lobbying) that can be spent on lobbying. (The scales are based on a percentage of the organization's exempt purpose expenditures.)

3. What are the advantages and disadvantages of the two options?

Organizations covered by the "no substantial part" rule are not subject to any specific dollar-base limitation. However, few definitions exist under this standard as to what

activities constitute lobbying, and difficult-to-value factors, such as volunteer time, are involved.

Organizations seeking clear and more definite rules covering this area may wish to avail themselves of the election. By electing the optional sliding scale, an organization can take advantage of specific, narrow definitions of lobbying and clear dollar-based safe harbors that generally permit significantly more lobbying than the "no substantial part" rule. However, as noted above, there are ceilings (unadjusted for inflation) on the amount of funds that can be spent on lobbying. Thus, these dollar limits should be considered when making the election.

4. How does a public charity elect? May an election be revoked?

The organization files a simple, one-page Form 5768 with the Internal Revenue Service. The election only needs to be made once. It can be revoked by filing a second Form 5768, noting the revocation.

5. Does making the election expose the organization to an increased risk of an audit?

No. The Internal Revenue Manual specifically informs our examination personnel that making the election will not be a basis for initiating an examination.

6. Does the Internal Revenue Code allow public charities that receive federal grant funds and contracts to lobby with their private funds?

Yes. However, while it is not a matter of federal tax law, it should be noted that charities should be careful not to use federal grant funds for lobbying except where authorized to do so.

7. May private foundations make grants to public charities that lobby?

Yes, so long as the grants are not earmarked for lobbying and are either (1) general purpose grants, or (2) specific project grants that meet the requirements of section 53.4945-2(d)(6) of the Foundation Excise Tax Regulations.

8. May section 501(c)(3) organizations educate voters during a political campaign?

Yes. However, organizations should be careful that their voter education efforts do not constitute support or opposition to any candidate.

9. May public charities continue to lobby incumbent legislators even though the legislators are running for reelection?

Yes. Charities should be careful, however, to avoid any reference to the reelection campaign in their lobbying efforts.
If you have any further questions, please feel free to contact me at (202) 622-5656, or **********, Identification Number ********, of my office at (202) ********.

Sincerely,

Thomas J. Miller
Manager, Exempt Organizations Technical