

Lobbying Rules For Houses of Worship

“Churches” (which is how the Internal Revenue Code describes all houses of worship, including churches, temples, synagogues, and mosques), as with all other public charities, can lobby. Federal tax law draws a distinction between activities intended to influence public policy, and campaigning for a specific candidate. Campaigning for a candidate is strictly prohibited, while influencing the passage of legislation is allowed. See AFJ’s [“Election Checklist for Houses of Worship”](#) for more information on what churches can and cannot do in the context of elections.

While churches are subject to many of the rules governing 501(c)(3) public charities, there are important differences, one being the method of determining lobbying limits. Unlike other public charities, churches may not make the [501\(h\) election](#) to measure lobbying. Churches are subject to the “insubstantial part” test because at the time the legislation creating the 501(h) expenditure test was passed, churches opted out on religious freedom grounds. Faith-based organizations, such as the National Council of Jewish Women, Muslim Advocates, or the Sikh Coalition, that are connected to a specific church or religion but do not primarily receive their financial support from internal church sources are still eligible to use the 501(h) expenditure test.

What is Considered an “Insubstantial” Amount of Lobbying?

The insubstantial part test requires that “no substantial part of a charity’s activities...be carrying on propaganda or otherwise attempting to influence legislation.” Therefore, a church’s lobbying must be an “insubstantial” part of its overall activities. The IRS has provided no absolute guidance on how much lobbying is “substantial.” A 1952 federal court decision states that that 5% of an organization’s “time and effort” was an insubstantial part of its overall activities.¹ Most tax practitioners generally advise that churches can safely devote 3-5% of their overall activities toward lobbying.

As an example, a church that is not normally involved in influencing legislation wishes to sign onto an issue campaign letter that endorses specific legislation (e.g., pass the DREAM Act). This activity would be considered lobbying, but because the time spent by the church to sign onto the letter would not be a substantial part of the church’s overall activities, it is permissible for the church to engage in this type of policy advocacy.

Activities-Based Test

The lobbying limit imposed by the insubstantial part test is based on a church’s overall activities, not just its expenditures. The IRS considers not only the funds spent on lobbying by the church, but will look at factors such as the amount of time and energy devoted to legislative matters by the church regardless of cost. Activities to be counted towards a church’s lobbying limits include volunteer lobbying efforts by members of the congregation and others in the name of the church.

For example, a church with a congregation based in a low-income neighborhood is concerned about proposed cuts in the state budget to children’s health programs and decides to organize a bus trip for its parishioners to the state capitol to protest the budget cuts. Under the insubstantial part test, the time of the parishioners, the cost of chartering the bus, the costs of meals provided, any additional

¹ *Seasongood v. Commissioner*, 227 F.2d 907, 912 (6th Cir. 1955)

costs of the trip, and any staff time associated with organizing and attending the trip would be lobbying.

The church should make a reasonable estimate of the total number of hours that volunteers devote to the church and then allocate such time between legislative and non-legislative activities to determine the percentage of overall volunteer activities devoted to lobbying. Churches probably need only track efforts by those who volunteer in some type of organized capacity.

What is Considered Lobbying?

A church will be regarded as lobbying if it:²

- Contacts members of a legislative body (local, state, federal, even international) for the purpose of proposing, supporting, or opposing legislation, OR
- Urges the public to contact members of a legislative body for the purpose of proposing, supporting, or opposing legislation, OR
- Advocates for the adoption or rejection of legislation, OR
- Communicates with the general public and reflects a view on a [ballot initiative](#)

What Is Not Considered Lobbying?

Communications that discuss only broad principles, as opposed to specific legislation, would not count as lobbying. For example, signing onto a letter that endorses general concepts and priorities (e.g. treat immigrants fairly and with compassion) or engaging in a public education campaign that discusses marriage equality as a civil right (without referencing any pending ballot measures or legislation on the topic) would not likely be lobbying.

While churches are prohibited from supporting and opposing candidates for public office, they can criticize or praise incumbents for their official actions or votes, as long as they follow certain guidelines. For more information about mentioning federal, state or local candidates in your communications, see AFJ's fact sheet on "[Praising and Criticizing Incumbents](#)".

What Kind of Lobbying Records Must a Church Keep?

Unlike other 501(c)(3) public charities, churches are not required file Forms 990 with the IRS. Nonetheless, churches must still ensure their lobbying activities remain an insubstantial part of their overall activities. Like other nonprofits, churches should be careful about tracking employee and volunteer efforts to influence public policy.

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²Internal Revenue Service, *Tax Guide for Churches and Religious Organizations*, <http://www.irs.gov/pub/irs-pdf/p1828.pdf> [page 6]