

PART 56—PUBLIC CHARITY EXCISE TAXES

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§ 56.4911-0 Outline of regulations under section 4911.

Immediately following is an outline of the regulations under section 4911 of the Internal Revenue Code relating to an excise tax on electing public charities' excess lobbying expenditures.

§ 56.4911-0 Outline of regulations under section 4911.

§ 56.4911-1 Tax on excess lobbying expenditures.

- (a) In general.
- (b) Excess lobbying expenditures.
- (c) Nontaxable amounts.
 - (1) Lobbying nontaxable amount.
 - (2) Grass roots nontaxable amount.
- (d) Examples.

§ 56.4911-2 Lobbying expenditures, direct lobbying communications, and grass roots lobbying communications.

- (a) Lobbying expenditures.
 - (1) In general.
 - (2) Overview of § 56.4911 and the definitions of "direct lobbying communication" and "grass roots lobbying communication".
- (b) Influencing legislation: direct and grass roots lobbying communications defined.
 - (1) Direct lobbying communication.
 - (2) Grass roots lobbying communication.
 - (3) Exceptions to the definition of influencing legislation.
 - (4) Examples.
 - (5) Special rule for certain mass media advertisements.
- (c) Exceptions to the definitions of direct lobbying communication and grass roots lobbying communication.
 - (1) Nonpartisan analysis, study, or research exception.
 - (2) Examinations and discussions of broad social, economic, and similar problems.
 - (3) Requests for technical advice.
 - (4) Communications pertaining to "self-defense" by the organization.
 - (d) Definitions.
 - (1) Legislation.
 - (2) Action.
 - (3) Legislative body.
 - (4) Administrative bodies.

§ 56.4911-3 Expenditures for direct and/or grass roots lobbying communications.

- (a) Definition of term "expenditures for".
 - (1) In general.
 - (2) Allocation of mixed purpose expenditures.
 - (3) Allocation of mixed lobbying.

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- (b) Examples.
- (c) Certain transfers treated as lobbying expenditures.
 - (1) Transfer earmarked for grass roots purposes.
 - (2) Transfer earmarked for direct and grass roots lobbying.
 - (3) Certain transfers to noncharities that lobby.

§ 56.4911-4 Exempt purpose expenditures.

- (a) Application.
- (b) Included expenditures.
- (c) Excluded expenditures.
- (d) Certain transfers treated as exempt purpose expenditures.
- (e) Transfers not exempt purpose expenditures.
- (f) Definitions.
- (g) Example.

§ 56.4911-5 Communications with members.

- (a) In general.
- (b) Communications (directed only to members) that are not lobbying communications.
- (c) Communications (directed only to members) that are direct lobbying communications.
- (d) Communications (directed only to members) that are grass roots lobbying communications.
- (e) Written communications directed to members and nonmembers.
 - (1) In general.
 - (2) Direct lobbying directly encouraged.
 - (3) Grass roots expenditure if grass roots lobbying directly encouraged.
 - (4) No direct encouragement of direct lobbying or of grass roots lobbying.
- (f) Definitions and special rules.
 - (1) Member; general rule.
 - (2) Member; special rule.
 - (3) Member; affiliated group of organizations.
 - (4) Member; limited affiliated group of organizations.
 - (5) Subscriber.
 - (6) Directly encourages.
 - (7) Percentages of total distribution.
 - (8) Reasonable allocation rule.

§ 56.4911-6 Records of lobbying and grass roots expenditures.

- (a) Records of lobbying expenditures.
- (b) Records of grass roots expenditures.

§ 56.4911-7 Affiliated group of organizations.

- (a) Affiliation between two organizations.
 - (1) In general.
 - (2) Organizations not described in section 501(c)(3).
 - (3) Action on legislative issues.
- (b) Interlocking governing boards.
 - (1) In general.
 - (2) Majority or quorum.

- (3) Votes required under governing instrument or local law.
- (4) Representatives constituting less than 15% of governing board.
- (5) Representatives.
- (c) Governing instrument.
- (d) Three or more organizations affiliated.
 - (1) Two controlled organizations affiliated.
 - (2) Chain rule.
 - (e) Affiliated group of organizations.
 - (1) Defined.
 - (2) Multiple membership.
 - (3) Taxable year of affiliated group.
 - (4) Electing member organization.
 - (5) Election of member's year as group's taxable year.
 - (f) Examples.

§ 56.4911-8 Excess lobbying expenditures of affiliated group.

- (a) Application.
- (b) Affiliated group treated as one organization.
- (c) Tax imposed on excess lobbying expenditures of affiliated group.
- (d) Liability for tax.
 - (1) Electing organizations.
 - (2) Tax based on excess lobbying expenditures.
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 - (5) Taxable year for which liable.
 - (6) Organization a member of more than one affiliated group.
- (e) Former member organizations.

§ 56.4911-9 Application of section 501(h) to affiliated groups of organizations.

- (a) Scope.
- (b) Determination required.
- (c) Member organizations that are not electing organizations.
- (d) Filing of information relating to affiliated group of organizations.
 - (1) Scope.
 - (2) In general.
 - (3) Additional information required.
 - (4) Information required of electing member organization.
- (e) Example.
- (f) Cross reference.

§ 56.4911-10 Members of a limited affiliated group of organizations.

- (a) Scope.
- (b) Members of limited affiliated group.
- (c) Controlling and controlled organizations.
 - (d) Expenditures of controlling organization.
 - (1) Scope.
 - (2) Expenditures for direct lobbying.
 - (3) Grass roots expenditures.
 - (4) Exempt purpose expenditures.

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- (e) Expenditures of controlled member.
- (f) Reports of members of limited affiliated groups.
- (1) Controlling member organization's additional information on annual return.
- (2) Reports of controlling members to other members.
- (3) Reports of controlled member organizations.
- (g) National legislative issues.
- (h) Examples.

§ 56.6001-1 Notice or regulations requiring records, statements, and special returns.

- (a) In general.
- (b) Cross references.

§ 56.6011-1 General requirement of return, statement, or list.

§ 56.4911-1 Tax on excess lobbying expenditures.

(a) *In general.* Section 4911(a) imposes an excise tax of 25 percent on the excess lobbying expenditures (as defined in paragraph (b) of this section) for a taxable year of an organization for which the expenditure test election under section 501(h) is in effect (an "electing public charity"). An electing public charity's annual limit on expenditures for influencing legislation (*i.e.*, the amount of lobbying expenditures on which no tax is due) is the lobbying nontaxable amount or, on expenditures for influencing legislation through grass roots lobbying, the grass roots nontaxable amount (see paragraph (c) of this section). For rules concerning the application of the excise tax imposed by section 4911(a) to the members of an affiliated group of organizations (as defined in § 56.4911-7(e)), see § 56.4911-8.

(b) *Excess lobbying expenditures.* For any taxable year for which the expenditure test election under section 501(h) is in effect, the amount of an electing public charity's excess lobbying expenditures is the greater of—

(1) The amount by which the organization's lobbying expenditures (within the meaning of § 56.4911-2(a)) exceed the organization's lobbying nontaxable amount, or

(2) The amount by which the organization's grass roots expenditures (within the meaning of §§ 56.4911-2(a)) exceed the organization's grass roots nontaxable amount.

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(c) *Nontaxable amounts—(1) Lobbying nontaxable amount.* Under section 4911(c)(2), the lobbying nontaxable amount for any taxable year for which the expenditure test election is in effect is the lesser of—

(i) \$1,000,000, or

(ii) To the extent of the electing public charity's exempt purpose expenditures (within the meaning of § 56.4911-4) for that year, the sum of 20 percent of the first \$500,000 of such expenditures, plus 15 percent of the second \$500,000 of such expenditures, plus 10 percent of the third \$500,000 of such expenditures, plus 5 percent of the remainder of such expenditures.

(2) *Grass roots nontaxable amount.* Under section 4911(c)(4), an electing public charity's grass roots nontaxable amount for any taxable year is 25 percent of its lobbying nontaxable amount for that year.

(d) *Examples.* The provisions of this section are illustrated by the examples in § 1.501(h)-3.

§ 56.4911-2 Lobbying expenditures, direct lobbying communications, and grass roots lobbying communications.

(a) *Lobbying expenditures—(1) In general.* An electing public charity's lobbying expenditures for a year are the sum of its expenditures during that year for direct lobbying communications ("direct lobbying expenditures") plus its expenditures during that year for grass roots lobbying communications ("grass roots expenditures").

(2) *Overview of § 56.4911-2 and the definitions of "direct lobbying communication" and "grass roots lobbying communication."* Paragraph (b)(1) of this section defines the term "direct lobbying communication." Paragraph (b)(2) of this section provides the general definition of the term "grass roots lobbying communication." (But also see paragraph (b)(5) of this section (special rebuttable presumption regarding certain paid mass media communications) and § 56.4911-5 (special, more lenient, definitions for certain communications from an electing public charity to its bona fide members)). Paragraph (b)(3) of this section lists and cross-references various exceptions to the definitions set forth in paragraphs (b) (1)