**Module 6**

**The 501(h) Election: Application**

**PowerPoint Script**

**Slide 1: Title Page**

Welcome to an overview on the 501(h) election expenditure test.

**Slide 2: Learning Objectives**

Today we are going to spend some time talking about the two tests applicable to a charity with a 501(h) election in place:

1. The expenditure test
2. The test to determine whether an organization normally makes excessive lobbying expenditures

We will break each test down, define the various terms used in each test, and then work through some sample calculations so you can see the how tests work in practice.

**Slide 3: 501(h) Expenditure Test**

The expenditure test provides a cap on the amount a charity may annually spend on lobbying expenditures. Remember a portion of staff salaries will count as lobbying expenditures based on the amount of their time spent on lobbying activities over their total working time. If a charity makes lobbying expenditures in excess of this amount, then it will be subject to a penalty. When we say cap, we should be a little more specific as there are actually two separate, but related caps. First, there is a cap on the total amount of lobbying expenditures for the year. Then there is a separate cap on grassroots lobbying expenditures for the year.

**Slide 4: Definitions**

Before we jump into the calculations, we need to go over some definitions first.

* Exempt purpose expenditures – This is the total amount paid by the charity to accomplish its exempt purpose. This would *include* the charity’s lobbying expenditures.
* Lobbying expenditures – Lobbying expenditures are expenditures made for the purposes of influencing legislation. Lobbying expenditures needs to be broken out into two categories: direct lobbying expenditures and grassroots lobbying expenditures
* Direct lobbying expenditures – Direct lobbying expenditures are any expenditure made to influence any legislation through communication with any member or employee of a legislative body or with a government official or employee who may participate in the formulation of the legislation. In order to constitute a direct lobbying expenditure, the communication must:
	+ Refer to specific legislation
	+ Reflect a view on such legislation

**Slide 5: Definitions Cont’d.**

* Grassroots lobbying expenditures - Any expenditure made for the purpose of influencing any legislation through an attempt to affect the opinions of the general public. The communication must:
	+ Refer to specific legislation
	+ Reflect a view on such legislation
	+ Encourage the recipients of the communication to take action with respect to such legislation
* Lobbying nontaxable amount – This is what we need to calculate. This our cap - the maximum amount of total lobbying expenditures a charity can make without incurring a penalty.
* Grassroots nontaxable amount – Same here. We need calculate this amount. This is the maximum amount of grassroots lobbying expenditures a charity can make without incurring a penalty

**Slide 6: Table**

Now that we have our definitions. Let’s take a look at the calculation. As you can see, the amount that can be spent on lobbying depends on the charity’s total expenditures. If the charity has less than $500,000 of expenditures in a given year, then it would be allowed to spend 20% of that amount on lobbying. Its grassroots lobbying expenditures would be capped at 5% of its total expenditures. As the charity’s expenditures go up, the percentage that may be spent on lobbying expenditures decreases.

Remember not to get overwhelmed with these numbers. There is a calculator that will run this calculation for your charitable organization.

**Slide 7: Normally Makes Test**

Let’s move on to the second of the two tests a charity with a 501(h) election in place must consider. The purpose here tests whether a charity “normally” makes expenditures in excess of it lobbying ceiling amount. If charity violates this test, the penalty is harsh: loss of tax-exemption so you want to make sure to really focus on this test.

Similar to the Expenditure Test, a charity has to run this test for its total lobbying expenditures and its grassroots lobbying expenditures.

Under this test, a charity “normally makes expenditures in excess” of its lobbying ceiling amount if its base years’ lobbying expenditures exceeds 150% of its base years’ lobbying nontaxable amount. The term base years means the current year plus the prior three years. So, for example, if you ran the calculation for 2018, you would look at the total amount of lobbying expenditures made from 2015, 2016, 2017, and 2018. You compare that total to the sum of 150% of lobbying nontaxable amounts for 2015-2018. Remember the lobbying nontaxable amounts are the percentage amounts we calculated in the prior example. You would then run the same calculation for the grassroot lobbying amounts.

**Closing:**

This have been a brief overview of the mechanics of the 501(h) expenditure test. To see a numerical example of the test in action, make sure to check out our other training modules. If you want to learn more about the 501(h) election or lobbying restrictions in general, make sure to check out our website.