



Department of the Treasury
Internal Revenue Service

www.irs.gov

Notice **1333**
(August 2004)

Nondeductible Lobbying and Political Expenditures

Notification and Reporting Requirements of Internal Revenue Code (IRC) Section 6033(e)

Tax Exempt and Government Entities Division

IRC section 6033(e) requires certain tax-exempt organizations to tell their members what portion of their membership dues are not deductible as business expenses because they relate to the organization's lobbying and political expenditures. If the organization does not notify its members, it must pay a tax (commonly referred to as a "proxy tax"). The following questions and answers will help organizations determine their notification and reporting requirements.

• **What constitutes nondeductible lobbying and political expenditures?**

IRC section 162(e) denies a deduction for lobbying and political expenditures that are paid or incurred in connection with any of the following:

- Influencing legislation;
- Participating or intervening in any political campaign on behalf of (or in opposition to) any candidate for public office;
- Attempting to influence the general public with respect to elections, legislative matters, or referendums; or
- Any direct communication with a covered executive branch official in an attempt to influence the person's official actions or positions.

• **Which organizations must notify their members?**

The notice requirement only applies to the following types of tax-exempt organizations:

- Social welfare organizations described in IRC section 501(c)(4) that are not veterans organizations.
- Agricultural and horticultural organizations described in IRC section 501(c)(5) but not labor organizations.
- Business leagues and other organizations described in IRC section 501(c)(6).

- **What are the notice and reporting requirements?**

When the organization assesses dues or when the member pays the dues, the organization must notify the member of the nondeductible portion of those dues. In addition, the organization must complete lines 85c through 85h on Form 990, *Return of Organization Exempt From Income Tax*.

- **Are there any exceptions to the notice requirement?**

Yes. The notice requirement does not apply if:

- The organization's lobbying and political expenditures are only in-house expenditures and do not exceed \$2,000.
- The organization is an IRC section 501(c)(4) or (c)(5) organization and more than 90% of its members pay dues of \$75 or less. (The \$75 is subject to a cost-of-living adjustment. For tax years beginning in 2004, the amount is \$86.)
- The organization receives more than 90% of its annual dues from any of the following:
 - IRC section 501(c)(3) organizations;
 - State or local government entities or entities whose income is excluded from tax under IRC section 115; or
 - Organizations exempt from tax under IRC section 501(a) other than IRC section 501(c)(4) social welfare organizations that are not veterans organizations, IRC section 501(c)(5) agricultural or horticultural organizations, or IRC section 501(c)(6) organizations.
- The organization has records to substantiate that 90% or more of the annual dues paid to the organization are not deductible by its members as business expenses, whether or not the organization uses any part of the dues for lobbying and political expenditures.

- **What must an organization do if it did not notify its members of the nondeductible amount?**

An organization that does not provide this information to its members must pay a proxy tax on the amount of nondeductible expenditures at the highest corporate rate. This tax is reported on line 37 of Form 990-T, *Exempt Organization Business Income Tax Return, (proxy tax under section 6033(e))*. In addition, the organization must complete lines 85c through 85h on Form 990.

- **What should an organization do if its nondeductible expenditures were more than it reported to its members?**

The organization can request a waiver of the proxy tax on line 85h of Form 990. An organization that requests a waiver must include this excess amount in the following year notification to its members.

- **Where can an organization get more information?**

For more detailed information about the notice and proxy tax requirements, see our FY 2003 CPE training article, *Political Campaign and Lobbying Activities of IRC 501(c)(4), (c)(5), and (c)(6) Organizations*, available on the IRS website at www.irs.gov/eo, or call TE/GE Customer Account Services at (877) 829 – 5500. Hours of operation are Monday through Friday 8:00 a.m. – 6:30 p.m. Eastern Time.
