

## Family Foundations & Advocacy

Family foundations are 501(c)(3) organizations that are classified as private foundations.

### **Family Foundations May Engage in Advocacy**

Family foundations may participate in the advocacy arena. Although they incur a prohibitive tax on lobbying expenditures, lobbying is only one type of advocacy. Lobbying includes communicating with legislators and their staff to express a view on specific legislation (direct lobbying) and encouraging others to contact their legislators to express a view about specific legislation (grassroots lobbying).

Family foundations may engage in any activity that does not qualify as lobbying. For example, it is not lobbying to meet with legislators to educate them about a broad social problem like air pollution, as long as you do not express a preference for a specific legislative proposal to address the problem, such as legislation on car emissions.

### **Family Foundations May Fund Public Charities That Lobby**

Family foundations may support public charities that lobby, but they must follow specific rules. Most importantly, the grant may not be “earmarked” for lobbying, as earmarked funds create a taxable expenditure for the foundation. A grant is considered earmarked for lobbying if it is conditioned upon an oral or written agreement that the grant be used for lobbying purposes. The prohibition on earmarking does not mean that family foundations must require grantees to refrain from using grant funds for lobbying; in fact, a grant agreement that forbids use of the funds for lobbying is unnecessarily restrictive.

Under federal tax law, family foundations may make two types of grants that avoid creating taxable expenditures – general support and specific project grants – while permitting grantees flexibility in the use of their funds. A general support grant is not earmarked for a particular purpose and specifically is not earmarked to be used in an attempt to influence legislation. The public charity may use the grant funds for any purpose, including lobbying. If the grantee uses the money for lobbying, the family foundation will not incur a taxable expenditure.

Family foundations may also fund specific projects, even those that include lobbying. When making a specific project grant, the family foundation must review the grantee’s project budget and may give a grant in an amount up to the non-lobbying portion of the budget. The public charity must use the grant funds only for the specific project. If these conditions are met, the family foundation will not incur a taxable expenditure, even if the grantee subsequently uses some of the grant money for lobbying under the designated project.

### **Family Foundations May Support Election-Related Activities**

Family foundations, like all 501(c)(3) organizations, are absolutely prohibited from engaging in activity that supports or opposes a candidate for public office; however, they can support or engage in nonpartisan activities, such as voter education, candidate education, and get-out-the-vote activities. Family foundations may also fund voter registration activities, but additional restrictions apply.

### **Trustees and Staff of Family Foundations May Engage in Advocacy Activities**

People associated with foundations do not lose their rights as individuals to participate in the policy process. In your individual capacity, you may speak with elected representatives about issues that are important to you, but it is important to separate this individual advocacy from activities you undertake on behalf of the foundation.

For more information on these rules, see *Investing in Change: A Funder’s Guide to Supporting Advocacy*.

Note: This handout provides general guidelines only, and is intended to serve as an overview. Because the application of law is fact-sensitive and context is critical, it should not be relied upon as legal advice.