

charities may elect the expenditure test of section 501(h). The *expenditure test* generally permits higher limits for lobbying expenditures than allowed under the substantial part test. Electing public charities are subject to the lobbying expenditure definitions of section 4911, which are generally more liberal than the definitions under the substantial part test. Section 4911 applies only to public charities that made a valid section 501(h) election by filing Form 5768, Election/Revocation of Election by an Eligible Section 501(c)(3) Organization To Make Expenditures To Influence Legislation.

Electing public charities. If the organization is an electing public charity, it must complete Part VI-A of this form.

Nonelecting public charities. If the organization checked "Yes" but is not an electing public charity, it must complete Part VI-B and attach a statement giving a detailed description of the organization's lobbying activities.



All charities, both electing and nonelecting, are absolutely prohibited from intervening in a political campaign for or against any candidate for an elective public office. If a charity does intervene in a political campaign, it will lose both its tax-exempt status and its eligibility to receive tax-deductible charitable contributions. Both the organization and its managers are subject to the tax on political expenditures under section 4955.

Line 2. See Part IV, Definitions, for the meaning of the term family member.

Lines 2a through 2e. These lines apply to both sides of a listed transaction. Reporting is required, for example, whether the exempt organization is a payer or payee, buyer or seller, lender or borrower.

Line 2d. Compensation or repayment. If the only compensation or repayment relates to amounts the organization reported in Part V-A of Form 990, or Part IV of Form 990-EZ, check "Yes" and write "See Part V-A, Form 990," or "See Part IV of Form 990-EZ," on the dotted line to the left of the entry space.

Line 3a. Scholarships, etc. The term *qualify* in line 3a means that organizations or individuals will use the funds the organization provides for charitable purposes described in sections 170(c)(1) and 170(c)(2).

The term *qualify* also means that individual recipients belong to a charitable class and the payments are to aid them. Examples include:

- Helping the aged poor;
- Training teachers and social workers from underdeveloped countries; and
- Awarding scholarships to individuals.

Line 3b. Section 403(b) annuity plan. Indicate whether the organization has a section 403(b) annuity plan available for its employees.

Line 3c. Conservation easements.

Answer "Yes" if the organization received or held one or more conservation easements during the year. In general, an *easement* is an interest in the land of another. A *conservation easement* is an interest in the land of another for purposes that include environmental protection; the preservation of open space; or the preservation of property for historic, educational, or recreational purposes. For more information see Notice 2004-41, 2004-28 I.R.B. 31.

Attached schedule. If "Yes," the organization must attach a schedule that includes the following information.

1. The number of easements held at the beginning of the year, the acreage of these easements and the number of states where the easements are located.

2. The number of easements and the acreage of these easements that the organization received or acquired during the year.

3. The number of easements modified, sold, transferred, released, or terminated during the year and the acreage of these easements. For each easement, explain the reason for the modification, sale, transfer, release or termination. Also, identify the recipient (if any), and show if the recipient was a qualified organization (as defined in section 170(h)(3) and the related regulations at the time of transfer).

4. Show the number of easements held for each of the following categories:

- Easements on buildings or structures;
- Easements that encumber a golf course or portions of a golf course;
- Easements within or adjacent to residential developments and housing subdivisions, including easements related to the development of property; and
- Conservation easements that were acquired in a transaction described under *Purchase of Real Property from Charitable Organizations* in Notice 2004-41 and if the organization acquired any such easements during the year.

5. The number of easements and the acreage of these easements that were monitored by physical inspection or other means during the tax year.

6. Total staff hours and a list of expenses devoted to (legal fees, portion of staff salaries, etc.) incurred for monitoring and enforcing new or existing easements during the tax year.

7. Identify all easements on buildings or structures acquired after August 17, 2006, and show if each easement meets the requirements of section 170(h)(4)(B).

Line 3d. Answer "Yes" if the organization provides any of the following types of credit counseling and/or debt management activities:

- Educating and/or counseling consumers, in person, in writing, or using electronic means;
- Helping consumers consolidate debts;

- Negotiating with creditors on behalf of consumers to lower interest rates, waive fees, adjust balances, or restore acceptable credit ratings;
- Offering, selling, or managing debt and/or loan consolidation services and programs or down payment assistance services;
- Acting as an escrow agent for debtors; or
- Participating in creditor Fair Share arrangements.

Line 4a. Answer "Yes" if the organization is a sponsoring organization that maintains one or more donor advised funds.

A *sponsoring organization* is any organization which:

- Is described in section 170(c), except for governmental organizations described in section 170(c)(1) or (2)(A);
- Is not a private foundation as defined in section 509(a); and
- Maintains one or more donor advised funds.

Generally, a *donor advised fund* is a fund or account:

- That is separately identified by reference to contributions of a donor or donors;
- That is owned and controlled by a sponsoring organization; and
- For which the donor or donor advisor has or reasonably expects to have advisory privileges in the distribution or investment of amounts held in the donor advised funds or accounts because of the donor's status as a donor.

A *donor advisor* is any person appointed or designated by a donor to advise a sponsoring organization on the distribution or investment of amounts held in the donor's fund or account.

Exception. A donor advised fund does not include any fund or account:

- That makes distributions only to a single identified organization or governmental entity, or
- In which a person described in 3 above gives advice about which individuals receive grants for travel, study, or other similar purposes, if:
 - The person's advisory privileges are performed exclusively by such person in his or her capacity as a committee member in which all of the committee members are appointed by the sponsoring organization;
 - No combination of donors or donor advisors (and related persons as defined below) directly or indirectly control the committee;
 - All grants from the fund or account are awarded on an objective and nondiscriminatory basis following a procedure approved in advance by the board of directors of the sponsoring organization. The procedure must be designed to ensure that all grants meet the requirements of sections 4945(g)(1), (2), or (3); or
- That is excepted under section 4966(d)(2)(C). For example, see Notice

2006-109, 2006-51 I.R.B. 1121, and any future related guidance.

A *related person* is any family member (as defined in section 4958(f)) of the donor or donor advisor and any 35% controlled entity (as defined in section 4958(f)) of the donor or donor advisor. See Notice 2006-109, and any future related guidance for more information.



Funds or accounts meeting one of these exceptions must be reported on lines 4f and 4g.

Line 4b. Answer "Yes" if the organization made any taxable distributions under section 4966.

A *taxable distribution* is any distribution occurring in any tax year beginning after August 17, 2006, from a donor advised fund to any:

1. Natural person, or
2. Any other person, if:
 - a. The distribution is for any purpose other than the promotion of religious, charitable, scientific, literary or educational purposes, or to foster national or international amateur sports competition, or for the prevention of cruelty to children or animals; or
 - b. The sponsoring organization maintaining the donor advised fund does not exercise expenditure responsibility in the distribution according to section 4945(h).

Exception. A taxable distribution does not include a distribution from a donor advised fund to:

- Any organization described in section 170(b)(1)(A) (other than a disqualified supporting organization),
- The sponsoring organization of the donor advised fund,
- Any other donor advised fund, or
- Certain natural persons as described in Notice 2006-109.

A *disqualified supporting organization* is a Type III supporting organization that is not functionally integrated and any Type I, Type II, or functionally integrated Type III supporting organization where the donor or donor advisor (and any related person) directly or indirectly controls a supported organization of the supporting organization. See instructions for line 13 for more information on supporting organizations.

Line 4c. Answer "Yes" if the organization made any distributions to a donor, donor advisor, or related person (as defined above).

Lines 4d and 4e. For a definition of donor advised funds, see the instructions for line 4a.

Lines 4f and 4g. Enter the number of separate funds or accounts on line 4f (other than those reported on line 4d) where donors have the right to provide advice on the distribution or investment of amounts held in such funds or accounts. Figure the number of funds or accounts owned at the end of the tax year. If line 4f is a number other than zero also

complete line 4g. If the organization does not maintain any such accounts, enter zero on lines 4f and 4g.

Part IV. Reason for Non-Private Foundation Status

Definitions

The following terms are used in more than one item in Part IV. The definitions given below generally apply.

Support (for lines 10, 11, and 12 of Part IV), with certain qualified exceptions described below, is all forms of support including (but not limited to):

Support includes . . .	Part IV-A line
Gifts, grants, contributions, membership fees	15 and 16
Any amounts an organization receives from the exercise or performance of its charitable, educational, or other purpose or function constituting the basis for its exemption*	17
Net income from unrelated business activities, whether or not such activities are carried on regularly as a trade or business	18 and 19
Gross investment income, such as interest, dividends, rents, and royalties	18
Tax revenues levied for the benefit of an organization and either paid to or expended on behalf of such organization; and	20
The value of services or facilities (exclusive of those generally furnished to the public without charge) furnished by a governmental unit referred to in Code section 170(c)(1) to an organization without charge	21

***Note.** The amounts on line 17 are included as support only for those organizations that checked the box on line 12. Otherwise, the amounts on line 17 are not included in support.

Support does not include . .	Part IV-A line
Any amounts an organization receives from the exercise or performance of its charitable, educational, or other purpose or function constituting the basis for its exemption*	17
Any gain upon the sale or exchange of property which would be considered under any section of the Code as gain from the sale or exchange of a capital asset.	

Part IV-A

Support does not include . .

Contributions of services for which a deduction is not allowable.

***Note.** For organizations that checked the box on line 12, the amounts on line 17 of the Support Schedule are included in support.

Support from a governmental unit, with certain exceptions described below, includes:

- Any amounts received from a governmental unit, including donations or contributions and amounts received in connection with a contract entered into with a governmental unit for the performance of services or in connection with a government research grant, provided these amounts are not excluded from the term support as amounts received from exercising or performing the organization's charitable purpose or function.

An amount paid by a governmental unit to an organization is not treated as received from exercising or performing its charitable, etc., purpose or function if the payment is to enable the organization to provide a service to, or maintain a facility for, the direct benefit of the public, as for example, to maintain library facilities that are open to the public.

- Tax revenues levied for the organization's benefit and either paid to or expended on its behalf.
- The value of services or facilities (exclusive of services or facilities generally furnished, without charge, to the public) furnished by a governmental unit to the organization without charge. For example, a city pays the salaries of personnel to guard a museum, art gallery, etc., or provides the use of a building rent free. However, the term does not include the value of any exemption from federal, state, or local tax or any similar benefit.

Indirect contributions from the general public. Indirect contributions are what the organization receives from other organizations that receive a substantial part of their support from general public contributions. An example is the organization's share of the proceeds from an annual community chest drive (such as the United Way or United Fund). These are included on line 15.

Disqualified person. A disqualified person is:

1. A substantial contributor, who is—
 - a. Any person who gave an aggregate amount of more than \$5,000, if that amount is more than 2% of the total contributions the foundation or organization received from its inception through the end of the year in which that person's contributions were received.
 - b. The creator of a trust (without regard to the amount of contributions received by the trust from the creator and other persons).
 - Any person who is a substantial contributor at any time generally remains