GET TO KNOW BDO

DEDUCTING EXPENSES RELATED TO LOBBYING & GOVERNMENT AFFAIRS

IRC §162(e) disallows a tax deduction for lobbying expenditures. Many companies, however, are using an overly broad definition of “lobbying” to identify their nondeductible lobbying expenditures. By not identifying deductible expenses for non-lobbying but government-affairs-related activities, many companies are missing an opportunity to reduce their current tax liability.

Many companies identify their nondeductible lobbying expenditures as the amounts the Lobbying Disclosure Act (LDA) requires them to report to the federal government each quarter.

The problem with this approach is that the LDA amounts include expenditures that are deductible.

NONDEDUCTIBLE LOBBYING EXPENDITURES

An expenditure is nondeductible under Treas. Reg. §1.162-29 if it seeks to influence legislation. Examples include expenditures to:

▸ Participate or intervene in any political campaign for or against any candidate for public office;

▸ Attempt to influence the general public, or segments of the public, about elections, legislative matters, or referenda;

▸ Communicate directly with certain executive branch officials in any attempt to influence their official actions or positions; and

▸ Research, prepare, plan, or coordinate any of the above.

DEDUCTIBLE GOVERNMENT AFFAIRS EXPENDITURES

Expenditures for activities that do not seek to influence legislation, on the other hand, may be deductible.

Such expenditures include those typically—but not necessarily—incurred by Government Affairs departments, e.g., for monitoring, reviewing, analyzing, and trying to comply with current and proposed legislation.

“Many companies are overstating their tax liability, not deducting expenditures they could be. They're including in their nondeductible ‘lobbying’ expenditures expenses related to government affairs that they could deduct. In some cases, the tax savings available are material.”

Chris Bard
Partner, BDO Specialty Tax Services
Other examples include:

- Ordinary and necessary business expenses paid or incurred with respect to legislation of any local or foreign council or similar governing body;
- Activities that do not seek to influence legislation, such as determining the existence or procedural status of specific legislation, or the time, place, and subject of any hearing to be held;
- Preparing routine summaries of the provisions of specific legislation;
- Performing an activity for purposes of complying with the requirements of any law, and discussions regarding existing laws, regulations, policies, or governmental programs;
- Reading any publications available to the general public or viewing or listening to other mass media communications;
- Merely attending a widely attended speech; and
- Other routine administrative activities performed by government affairs departments, e.g., budgeting, human resources, and expense reporting activities.

**NEXT STEPS**

If your company pays or incurs expenses related to lobbying, it may be understating its deductions and overpaying its taxes.

We recommend considering the following:

- Does your company report lobbying expenses under the LDA?
- If so, does your company report all LDA expenses as nondeductible?
- Does your tax department have a process in place to review such expenditures and segregate “lobbying” expenditures from other expenses that are deductible?
- If so, has this process been reviewed recently? Recently released regulations have led many companies to shift the focus of their Government Affairs departments from influencing legislation to determining how to assist the company in complying with new legislation. Companies that follow the same-as-last-year approach for their Government Affairs expenditures may be missing opportunities to save.
- Do you have the time and expertise to review and properly allocate all of the expenses involved as either deductible or nondeductible?

BDO can help you think through all of these considerations. We can also help your company develop an efficient and effective process you can implement now and leverage in the future.

---

BDO is the brand name for BDO USA, LLP, a U.S. professional services firm providing assurance, tax, financial advisory and consulting services to a wide range of publicly traded and privately held companies. For more than 100 years, BDO has provided quality service through the active involvement of experienced and committed professionals. The firm serves clients through 63 offices and more than 450 independent alliance firm locations nationwide. As an independent Member Firm of BDO International Limited, BDO serves multi-national clients through a global network of 1,328 offices in 152 countries.

BDO USA, LLP, a Delaware limited liability partnership, is the U.S. member of BDO International Limited, a UK company limited by guarantee, and forms part of the international BDO network of independent member firms. BDO is the brand name for the BDO network and for each of the BDO Member Firms. For more information please visit: www.bdo.com.

Material discussed is meant to provide general information and should not be acted on without professional advice tailored to your firm’s individual needs.

© 2015 BDO USA, LLP. All rights reserved.