# Bond Case Briefs

*Municipal Finance Law Since 1971*

---

## A Change to the Lobby Tax: Venable

A little-noticed provision tucked away in the recently enacted Tax Cuts and Jobs Act (TJCA) will affect associations that lobby at the local level. Under the TJCA, expenses incurred in connection with attempting to influence legislation at the local or municipal level (including Indian tribal governments) will no longer be deductible. For associations, this tax code change means that such local lobbying expenses will need to be counted as part of the association's lobbying tax calculations.

In general, since 1993, the tax code has required associations recognized as exempt under Section 501(c)(6) to either:

1. Tell their members what portion of their dues is spent on lobbying and is therefore nondeductible, or
2. Pay a proxy tax on the amount the association spends on lobbying.

The tax code contained a specific exception for expenses incurred in connection with influencing local legislation. The TJCA eliminates this exception immediately, effective for any such expenditures incurred on or after December 22, 2017.

For associations involved in local lobbying as well as state and/or federal lobbying, this means that the percentage of dues they report to their members as nondeductible may increase. Associations that are involved only in local lobbying—such as a local chamber of commerce—will now have to report to their members the portion of dues that is nondeductible. This could be a big shift in how such associations operate, since they may not have been accustomed to capturing staff time, expenses, and fees to outside lobbyists and reporting that as a percentage of their dues to members.

Another change to the tax code will likely have a positive effect on some associations affected by the lobbying nondeductibility rules. Specifically, those associations that choose to pay a flat proxy tax rather than estimate the portion of the membership dues allocable to lobbying expenditures and report such nondeductible amounts to their members will benefit from the reduced corporate rate—the proxy tax amount decreases from 35% of lobbying expenditures to 21%. As such, the lower corporate rate may reduce the tax liability for associations that elect to pay the proxy tax.

The requirement to report the percentage of membership dues allocable to lobbying does not apply to Section 501(c)(3) organizations, which are generally prohibited from devoting more than a substantial part of their activities to influencing legislation.

As a reminder, the rules on deductibility of lobbying are completely unrelated to lobbying disclosure rules. Many states require registration and reporting at the state level for local lobbying (such as New York). In addition, many localities have their own lobbying registration systems (such as New York City, to name just one of many).

**Venable LLP**

by Ronald M. Jacobs, Lawrence H. Norton, George E. Constantine and Christopher N. Moran

USA March 7 2018