



# NON PROFITGPS

HELPING TO KEEP YOU ON THE RIGHT ROAD



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 Published by Heveron & Company CPAs

## Advocacy, Lobbying, and Political Campaign Activities

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### Advocacy VS. Lobbying

Advocacy is allowed and encouraged; lobbying by charities is permitted but restricted; and political campaign involvement by nonprofits is prohibited, so it is important to be clear on definitions and implications of each, especially as we go into a time of heated primaries and elections.

### The Alliance for Justice defines advocacy as:

*"While all lobbying is advocacy, not all advocacy is lobbying. Advocacy is any action that speaks in favor of, recommends, argues for a cause, supports or defends, or pleads on behalf of others. It includes public education, regulatory work, litigation, and work before administrative bodies, lobbying, nonpartisan voter registration, nonpartisan voter education, and more."*

Advocacy, therefore, is broad—encompassing just about every form of communications a nonprofit can do. Lobbying, on the other hand, is very narrowly defined.

(Continued on page 2)

### INSIDE THIS ISSUE:

Advocacy, Lobbying, and Political Campaign Activities	1-2
Everything Is Going Electronic	3
Reducing the Possibility of a Ransomware Attack	3
Obtaining a Refund of the Parking Tax You Paid	3
WebStar Winner: Generation Two (G2)	4



HEVERON & COMPANY  
**WEBSTAR**

This Month's WebStar Winner Is:  
**Generation Two, g2Rochester.org**

### Better than Petting Puppies!

G2, or Generation Two, is a school-based program with trained community volunteers who hold weekly one-on-one, child-centered play sessions with students in K through grade 2.

G2 facilitates this time together to build relationships in order to foster resilience and provide children with the emotional strength they need to learn.



Volunteers are mostly older adults and college students who are trained in child-directed play.

They turn over control of the play session to their young friends; unconditionally accepting the play choices, thereby growing friendships quickly and deeply.

Competence and resilience are natural outgrowths of this type of acceptance and validation; which, in turn, helps support children who are more emotionally

ready for life's challenges in the classroom, in their peer relationships and in their lives outside of school.

G2 focuses on fostering autonomy, attachment to others, and competence. Everyone—no matter their age—can benefit in these areas, and addressing them through play is fun and rewarding.

Generation Two is seeking volunteers, please contact them at 585-210-2652 or email them at: g2rochester1@gmail.com.

(Continued from page 1)

#### Lobbying is defined as:

Communicating with decision-makers (elected officials, their staff, and voters) about existing or potential legislation, and urging a vote for or against. All three components of this definition are required: decision makers, actual legislation, and asking for a vote.

#### Lobbying is further broken down into:

**Direct lobbying:** Any attempt to influence new or existing legislation via communication with a member of the legislative body or other government representative who has a say in the legislation.

**Grassroots lobbying:** Asking the general public to contact their legislator and/or mobilizing the public around a legislative issue. It must be specific legislation already introduced or proposed. It must also reflect the organization's view on the legislation and encourage action. Examples of grassroots lobbying include: creating an online petition to generate public support for a cause, distributing flyers, and organizing a public demonstration or rally.

**Member Communications:** Communications directed only to your members, which may reflect the organization's view on specific legislation (but does not encourage members to get involved in direct lobbying or grassroots lobbying), is not considered lobbying.

Our tax code has guidance for determining how much is "too much" lobbying. The 501(h) election permits charities to expend certain amounts of money to lobby, based on their total expenditures.

Charities can submit IRS form 5768 and be allowed to utilize funds toward lobbying using a sliding scale based on their annual exempt purpose expenditures. There are different limits for direct lobbying and for grassroots lobbying. Limits are based on the size of the organization and may not exceed \$1,000,000, as indicated in the blue-shaded table.

#### Should Charities Elect?

As the IRS website points out: "Under the expenditure test, the extent of an organization's lobbying activity will not jeopardize its tax-exempt status, provided its expenditures, related to such activity, do not normally exceed an amount specified in section 4911."

We have been working with charities for 50 years and have never seen an election result in an audit or any sanctions.



If the amount of exempt purpose expenditures is:	Lobbying nontaxable amount is:
≤ \$500,000	20% of the exempt purpose expenditures
>\$500,00 but ≤ \$1,000,000	\$100,000 plus 15% of the excess of exempt purpose expenditures over \$500,000
> \$1,000,000 but ≤ \$1,500,000	\$175,000 plus 10% of the excess of exempt purpose expenditures over \$1,000,000
>\$1,500,000	\$225,000 plus 5% of the exempt purpose expenditures over \$1,500,000

#### When to File

Organizations electing to file the 501(h) election must submit form 5768 at any time during the tax year for which it is effective. The election remains in effect until revoked by the organization. Revocation is effective at the beginning of the next fiscal year.

#### What Happens if You Exceed the Limits?

Exceeding these amounts over a four-year period can result in loss of your tax-exempt status, making your non-profit a taxable organization.

Charities exceeding the limits in any one year must pay an excise tax of 25% of the excess.

There are a few very limited exceptions that don't result in these sanctions; for example, when a charity lobbies for, or against, legislation that would impact its existence.

Private foundations, churches, and certain other religious organizations are not permitted to make the election.

#### Political Campaign Activities

Charities should not engage in "political campaign activities." If they do, IRS regulations state the charitable nonprofit will lose its tax-exempt status.

Additionally, charities cannot make contributions to political candidates or political parties.

However, charitable nonprofits may engage in voter registration and voter engagement activities.

## Everything Is Going Electronic

We mentioned recently the New York State Charities Bureau registration must now be submitted electronically; the IRS just made a similar announcement.

On January 31, 2020, they stated that, effective immediately, applications for tax-exempt status under Sec. 501(c)(3) must be submitted electronically.

For those of us with applications in process there was some concern; however, the IRS said they would provide a 90-day transition period through April 30, 2020. After that date the process is similar to filing a 1023EZ.



#### Under the new rules, applicants will need to:

1. Register for an account on Pay.gov,
2. Enter "1023" in the search box, select Form 1023, and
3. Complete the form.

Before you complete the form 1023 determine whether you qualify for the much simpler form 1023EZ. Your assets cannot surpass \$250,000 and expected gross receipts cannot exceed \$50,000 annually.

## Reducing the Possibility of a Ransomware Attack

Preparing for a ransomware attack requires creating a mini-disaster recovery plan with steps: to avoid an attack in the first place, to minimize the impact of one occurring, and to recover if one does happen.

**Avoiding** begins with training your computer users to avoid malicious email attachments and infected websites. Regular reminders about how to recognize these are your best defense. Email security software available with Office 365 and other email providers can scan all attachments and help to remove malicious ones.

Make sure your anti-malware software automatically updates and operating systems and software stays up-to-date, including all patches. Individuals also need to be wary of providing information by phone to callers who may impersonate an official with your organization, your IT company, the IRS, or others. Scammers are trying new angles all the time.

Norton™ antivirus recommends that when you are traveling and using public Wi-Fi make sure to turn on a trustworthy Virtual Private Network (VPN) such as Norton Secure VPN or ExpressVPN.

**Minimize the impact** of an attack by immediately disconnecting infected systems—whether wired or wireless. Make sure your staff knows to alert you and IT immediately if they suspect an attack. The longer it takes to address the issue, the more it will spread. Backup regularly to minimize data loss.

**Recover:** Scan all workstations and servers, reformat infected computers, and restore operating systems and data from backups. This usually involves an IT professional.

Check out the website [nomoreransom.org](http://nomoreransom.org). The site lists several known ransomware attacks and their associated decryption keys which may allow you to unlock your data.

**Do not pay the ransom!** If you do, you are funding criminal activity and encouraging more attacks. Plus, paying the ransom doesn't ensure access to your data.

## Obtaining a Refund of the Parking Tax You Paid

You probably know the Unrelated Business Income Tax (UBIT) on transportation benefits, including providing paid parking, was repealed recently.

We hoped the IRS would automatically generate refunds, however, their guidance is that amended returns will need to be filed to claim refunds.

To obtain your refund, file an amended 990T return, excluding any (taxable) costs related to transportation benefits. Show the tax paid with the original return and the re-calculated tax excluding the tax on transportation benefits. The difference will be your refund. On the top of the return write "Amended Return-Section 512(a)(7)."