

ALERT

Tax Cuts and Jobs Act May Affect Your 2018 LDA Reports: Makes Direct Local Legislative Lobbying Nondeductible

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As a result of the Tax Cuts and Jobs Act of 2017, the cost of direct local legislative lobbying is no longer deductible as a business expense. Thus, expenses incurred by for-profit corporations for lobbying city councils, mayors, and other local officials about legislation are now nondeductible. This development also affects trade associations that must calculate and disclose the percentage of their members' dues that are nondeductible or pay the proxy tax in lieu of such member disclosure.

While this change is significant as a tax law matter given the amount of lobbying undertaken in Los Angeles, Chicago, Houston, and thousands of local jurisdictions around the country (the lobbying of Indian tribal governments also is affected), this tax change also may affect your federal lobbying reports. For those corporations, trade associations, and other organizations that use the tax method to file their quarterly Lobbying Disclosure Act (LDA) reports (Form LD-2), the total lobbying expense figure calculated each quarter will now need to include nondeductible direct legislative lobbying at the local level. (Grassroots legislative lobbying at the local level has long been nondeductible.)

This means that corporate and association LDA questionnaires need to be updated and LDA processes revised in order to capture salary costs and outside consultant payments and expenditures related to direct legislative local lobbying. When updating these processes, corporations and trade associations should examine them thoroughly and confirm that they want to continue filing their LDA reports using the tax definitions, or whether it would be an appropriate time to

Authors

D. Mark Renaud
Partner
202.719.7405
mrenaud@wiley.law

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switch to the LDA definitions, which do not capture any state, local, or grassroots lobbying expenses. (Once the choice is made for a year, the registrant must continue to use the same method for the rest of the calendar year.)

Finally, keep in mind that many localities have their own lobbying rules for direct and grassroots lobbying, including non-legislative and procurement lobbying (Chicago and New York City are good examples), and that state lobbying laws in many jurisdictions cover lobbying at the local level (Missouri and New York are good examples). Last year, we reported on the large fines in Chicago for failing to register as a lobbyist.

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