**Module 3**

**Applying the “Substantial Part” test to 501(c)(3) Organizations**

**PowerPoint Script**

**Slide 1: Title Page**

Applying the “Substantial Part” test to 501(C)(3) Organizations

**Slide 2: Learning Objectives**

This module will discuss how the “Substantial Part” test is applied to 501(c)(3) organizations and the practical implications of lobbying. This module will also give some examples of the “Substantial Part” test as applied by the IRS and U.S. Courts.

**Slide 3: Charitable Organization’s Restriction on Lobbying**

As you are now aware, the question you must ask, before making the 501(h) election, is whether you are engaging in a substantial or insubstantial amount of lobbying. There is no bright line test for this. The determination is based on the particular charity’s facts and circumstances. Relevant factors may include the percent of funds spent on lobbying, frequency of lobbying activities, importance the charity places on the lobbying activities, the time and effort spent on lobbying, and success in actually influencing legislation.

**Slide 4: Charitable Organization’s Restriction on Lobbying**

There can be harsh penalties for excessive lobbying. These penalties may include revocation of the charity’s tax-exempt status and a penalty equal to 5% of the lobbying expenditures being applied to the charity and the charity managers. Penalties are especially problematic given the ambiguity of the term “substantial.” Lobbying under the “Substantial Part” test can be risky, and charities cannot readily determine when the line is crossed. The result is that many charities refrain from lobbying altogether.

**Slide 5: Substantial v. insubstantial**

Attorneys rely on case law to determine if an organization has conducted a “substantial” amount of lobbying. There are some examples, however, they are vague, and the total amount of money spent on lobbying between the cases varies quite widely. If you plan on lobbying without making the 501(h) election, consult your attorney.

**Slide 5: End**