**Module 4**

**Substantial Part Test – Detailed Example**

**PowerPoint Script**

**Slide 1: Title Page**

This module will cover a detailed example of the substantial Part Test

**Slide 2: Example of the “Substantial Part” test in Action**

This example is a detailed examination of Christian Echoes National Ministry, Inc. v. United States. The mission of Christian Echoes was to “battle against Communism, socialism, and political liberalism, all of which are considered arch enemies of the Christian faith.”

Christian Echoes claimed to support “Christian conservative statesmen” without regard to party political labels. They published a monthly anti-Communism magazine, Christian Crusade, a weekly “intelligence report,” weekly Crusader, and a newspaper column titled “For and Against.” They also distributed pamphlets, leaflets, and broadcast reprints on aspects of anti-Communism activity, distributed tapes and records of selected broadcasts, and conducted an annual anti-Communism leadership school with the goal of answering the question “what can my community do to stem the forces of liberalism and thus stop the growth of socialism and communism?”

**Slide 3: Example of the “Substantial Part” test in Action**

From 1961 through 1966 Christian Echoes gross receipts ranged from approximately $677,000 to $1,000,000 per year and spent approximately 52% of this income on radio, television, publications and postage. One reason for the IRS action was the claim that Christian Echoes had engaged in substantial activity aimed at influencing legislation. The District Court reversed, holding that no substantial part of its activities had been devoted to attempts to influence legislation or intervene in political campaigns.

**Slide 4: Example of the “Substantial Part” test in Action**

On appeal, the 10th circuit found that the IRS’s conclusion was justified. The 10th Circuit then reversed the finding of the District Court, thus reinstating the revocation of the ministries tax exempt status. The 10th circuit cited 22 articles written by the ministry that seemed to be targeting legislation by influencing the public “to react to certain issues.” They went on to find that “the political activities of an organization must be balanced in the context of the objectives and circumstances of the organization to determine whether a *substantial part* of its activities was to influence or attempt to influence legislation.”

**Slide 5: Example of the “Substantial Part” test in Action**

It is important to not that the 10th Circuit found the “facts developed on audit were materially different from the facts disclosed in the taxpayer’s original exemption application. It did not refer specifically to Christian Echoes’ substantial involvement in activities aimed at influencing legislation.”

As a result, it is clear that even religious organizations can lost their tax-exempt status if they deviate from the state purpose in their exemption application. It is important to make sure you are adhering to the content in the original application or you risk losing your tax-exempt status.

It is also important to note that religious organizations ***cannot*** make the 501(h) election and, therefore, should keep in touch with their attorney if they plan on lobbying.

**Slide 6: Example of the “Substantial Part” test in Action**

Ultimately, under the substantial part test, the question is not what members of nonprofits can do, but how much. IRS guidance and precedent is limited, and the line between substantial and insubstantial is difficult to measure. Any organization that intends to lobby should pursue the 501(h) election. the “substantial part” test is too vague to ensure compliance. As mentioned before, if you do intend to conduct lobbying activities without taking the 501(h) election, be sure to consult your attorney.

**Slide 7: Are there penalties for substantial Lobbying when you haven’t made the 501(h) election?**

If the IRS finds that your organization participates in a substantial amount of lobbying, there are penalties for those organizations that have not made the 501(h) election. If you violate the “Substantial Part” test you risk losing your tax-exempt status. In addition, section 501(c)(3) organizations that lose their tax-exempt status due to excessive lobbying, other than churches and private foundations, are subject to an excise tax equal to five percent of their lobbying expenditures for the year in which they cease to qualify for exemption.

Furthermore, a tax equal to five percent of the lobbying expenditures for the year may be imposed against organizational managers, jointly and severally, who agree to making of such expenditures knowing that the expenditures would likely result in the loss of the organizations tax-exempt status.

Given the gravity of the penalties, all nonprofits should consider taking the 501(h) election, which replaces the murky “Substantial Part” test with the objective, measurable expenditure test. The expenditure test allows nonprofits to track their lobbying activities by the numbers. By extension, the expenditure test places the power in the hands of the nonprofit, not the IRS.