Memo for tax deductibility

TO: State Society Executive Directors
FROM: Kim Granados, CAE, Director, Membership and Professional Practice
DATE: July 10, 2014
RE: Requirement for Notification of Members Regarding Limitation on Deductibility of Dues

Most of you are aware of the continuing requirements of the Omnibus Budget Reconciliation Act (OBRA) of 1992 regarding dues deductibility. The act eliminated the deductibility of dues or other voluntary payments as a business expense, to the extent that those dues funds are used for “lobbying activity.” Under the law, organizations such as NSPE and state societies that engage in lobbying activity are required to notify their members as to the percentage of such payments that are no longer deductible (the law took effect January 1, 1994).

2. The following are exemptions that should be considered by each state society:

   - Organizations that spend less than $2,000 per year using “in house” lobbying staff, as defined in the Act, are exempt from the notice requirements. Any amount paid to an outside group for lobbying makes the organization ineligible for the exemption.
   - Organizations that can demonstrate that a large majority (90%) of their individual members personally pay for their dues, are exempt. It is unlikely that any state society would qualify under this provision.
   - State societies choosing to pay a “proxy” tax on lobbying expenses at the corporate tax rate (35%) are exempt.

3. The triggering events for the required member notification are “assessment of dues or solicitations of voluntary contributions” and “payment of dues or contributions.” NSPE includes the notice on the initial dues renewal notice, and each subsequent reminder. All states are encouraged to include information of the limitation on deductibility in their newsletter. Individual notification to their members in addition to or in lieu of the notice on the dues renewal statement. Member notification through the 2014/15 NSPE-generated dues statements. Some states may wish to send contributions that are not deductible and provide those to NSPE, in order to take advantage of the option of Each state will have to calculate the percentage of its dues and

4. The discussion in this memorandum does not affect charitable contributions to qualified charitable organizations such as the NSPE Educational Foundation or MATHCOUNTS.

5. In the past, NSPE has used the following formula to arrive at our FY 2014/15 non-deductible figure (.14 or 14%): NSPE national dues and contributions income (not gross income) divided into the total lobbying expenses. (The latter figure includes the direct, salary, burden and overhead costs for the Government Relations Department, plus a pro-rata share of the cost of the Executive Committee and Board of Directors meetings where legislative issues are discussed, plus a pro-rata share of the cost of PE magazine, which contains material on legislative issues (only those items which can be interpreted as advocacy, not straight news stories). Each state that wants to use the 2013/14 NSPE dues renewal statement to comply with its notification requirement will need to make its own calculations and provide the resulting percentage to NSPE. A SAMPLE WORKSHEET is attached. You may want to use this worksheet to calculate the percentage of your dues that is non-deductible. The completed worksheet and/or other calculations should be made a part of your permanent tax records in the event of an IRS audit. You should also keep in mind that the figures you use for these calculations will ultimately have to be reconciled with your 990 return.

Please use the attached reply form to provide NSPE with your calculated percentage. It will be used in the matrix of all state percentages to be included in the 2014/15 dues renewal notice going out in October 2014.

The penalty for non-compliance is a “proxy tax” (at the highest corporate rate) on any non-reported or under-reported lobbying expenses.
The [State Society] has calculated the percentage of our dues that is not deductible for 2014/15 (SEE ADJOINING MEMO AND WORKSHEET) and has determined the following is the figure that we wish to have included in the matrix being prepared by NSPE for notification to our members: ________%.

Executive Director

Date

QUESTIONS ON REPLY FORM #2:

Contact Arthur E. Schwartz, CAE, at aschwartz@nspe.org or 703-684-2845

For Calculating the Percentage of Membership Dues That Are Non-Deductible

1. Insert amount of “dues and contribution income.” Exclude any income from subscriptions, royalties, seminars, rents, fees, interest and other non-dues income. _______________

2. Insert amount of “lobbying expenses.” Include such items as budgeted costs for state government relations program, including salary, burden, and overhead; expenses for contract lobbyists; entertainment expenses related to lobbying; associated postage and printing expenses; and the pro-rata cost legislative information/update sections of monthly newsletters (e.g., if budget for state magazine is $100,000 for entire year and 1/10 of each monthly magazine is devoted to legislative information/update, then $10,000 should be included as “lobbying expenses”) It is our view that the goal is to use figures that most accurately portray the lobbying expenses to be incurred in calendar year 2014. For this reason, we feel it would be acceptable to use either year-end actual figures for 2013/14 (or 2013 if you are on a calendar year basis), or the budgeted figures for 2012/13 (or 2012 for those on a calendar year basis).

3. Please include this figure on the 2014/15 dues renewal statement going to members of our Society. This is the percentage of the state society portion of a member’s dues that is non-deductible for 2014: Divide line 3 by line 2 and insert amount below (e.g., divide “lobbying expenses” by “dues and contribution income,” for example, if “lobbying expenses” in Hypothetical Society of Professional Engineers (HSPE) are $25,000 and “dues and contribution income” in HSPE is $100,000, the calculation is $25,000 divided by $100,000 which equals .25 or 25%. Therefore, in this example, 25% of an HSPE member’s dues is not deductible.)

It is highly recommended that you retain a copy of this