

ASAE Public Policy

Board-Approved Position Statements

Public Policy Committee update as approved by Board of Directors on August 4, 2023.

1. Federal Tax Issues for Associations and Members

A. Unrelated Business Income

ASAE opposes any increased or additional federal income tax burden on associations. ASAE strongly opposes levying any tax on an association's expenses, as is seen with the 21% tax on certain fringe benefits provided by tax-exempt employers.

ASAE supports the "relatedness test" — continuation of the present system for determining areas of tax-exempt organization activity that are taxable because they are not related to the purposes for which exempt status was granted. Association activities, which benefit not only association members but also the entire U.S. economy, including education, publications, government affairs, conventions, trade shows, standards-setting, credentialing, research, joint marketing, charitable and community service, and other products and services that might require replacement of the programs by tax-supported government programs and that threaten critical activities. ASAE thus opposes any abridgment of tax exemption for associations including, but not limited: 1) taxation of royalty income, certain qualified sponsorship payments, or other income earned by associations from "passive" sources; 2) increased tax income by adjustment of the formulas used to determine taxable income from advertising in association publications; 3) aggregation of revenue from independent controlled subsidiaries of associations to determine if the associations' purposes warrant tax exemption; 4) taxation of dues income; or 5) any excise tax on staff compensation or benefits. ASAE supports continuation of tax-exempt treatment for investment income of associations and for revenue from association trade shows. ASAE favors uniform state income tax treatment of associations consistent with federal law where states tax income.

B. Retroactive Taxes on Executive Compensation

ASAE specifically opposes statutory interpretations that retroactively tax compensation plans and other contracts that were negotiated in good faith prior to changes in tax law. In many cases, associations are unable to renegotiate contracts established before changes in federal tax policy and are therefore required to pay exorbitant taxes under laws or statutory interpretation that simply did not exist when contracts were established. ASAE seeks fairness in tax policy, particularly as it relates to the treatment of associations and other nonprofits compared to their for-profit peers. As such, ASAE calls for grandfather provisions that would apply to all employment contracts negotiated prior to change in federal tax policy.

C. Business and Professional Activities

ASAE opposes federal income tax requirements that discourage or impede the offering of business and professional education by associations: 1) employer-paid business and professional educational benefits should remain deductible to employers and not taxable to employees; 2) expenses incurred for attendance at association-sponsored educational conventions, seminars and similar meetings, including meal and entertainment expenses,

should be fully tax deductible; and 3) expenses incurred for attendance at association-sponsored educational conventions, seminars and similar meetings held outside of the United States should be tax deductible without additional qualifying requirements, in recognition of the globalization of markets. ASAE favors full deductibility of association-related dues, registration fees, subscriptions and other expenses when claimed on individual federal tax returns as nonreimbursed business expenses.

2. Nonprofit Organization Employee Benefits & Association Health Care Plans

ASAE favors equal opportunity for employees of tax-exempt organizations to participate in tax-deferred qualified and nonqualified benefit plans. ASAE also favors allowing the portability of employee benefit plans offered to association executives.

ASAE also favors removal of obstacles to growth, management and financial stability of association-sponsored employee benefit plans offered to employees of members, in order to maximize coverage for workers and dependents.

ASAE supports quality, affordable and accessible health care for all Americans. ASAE supports national uniform standards for funding benefits and employee protections. ASAE further believes that association health care plans possess many years of proven experience in the delivery of benefits through purchasing coalitions. As such, association health care plans can lead the way to the reform goals of providing the efficient delivery of quality health care to more citizens. ASAE favors federal legislation to facilitate the offering of association-sponsored insurance programs so that such programs can function under national uniform standards or reciprocity.

3. The Federal Election Commission's Restrictions on Fundraising for Political Action Committees and Definition of "Member"; Application of Pay-to-Play Rules

ASAE supports the right of associations to maintain political action committees (PACs) for their members. ASAE supports the removal of the requirement that all trade association PACs obtain prior approval before soliciting employees of member companies. ASAE also supports removing the current law that restricts companies to approve only one trade association PAC per year, as well as the prohibition against soliciting the PACs of member companies. Data indicate that association PACs enjoy a broad base of support, make reasonable donations to federal candidates, and display definite bipartisanship in their contribution practices. PACs give association members a valuable tool to support the political process. ASAE believes that the Federal Election Commission's (FEC) existing definition of "member," as finalized in 1999 to supplant a regulatory process deemed unconstitutional, is favorable to the association community by providing clear guidelines to the FEC when determining whether a person may be solicited by an association PAC. For these same reasons, ASAE also opposes the application of pay-to-play rules that would prohibit or limit contributions by individuals to associations or their PACs.

4. Discrimination

In principle and in practice, ASAE values and seeks diverse and inclusive participation within the field of association management. ASAE opposes all legislation that permits discrimination or seeks to limit existing protections for all. This position extends to state legislation that would preempt existing local non-discrimination ordinances and/or restrict equal access to public accommodations. In choosing destinations to host meetings or events, ASAE looks closely at whether there are municipal non-discrimination ordinances in place to ensure that ASAE

attendees feel welcome and safe in a host city. ASAE also opposes legislation and/or policies that permit individuals and businesses to deny services to anyone based on religious or moral convictions. ASAE supports federal legislation to amend the Civil Rights Act of 1964 to explicitly prohibit discrimination on the basis of sexual orientation and gender identity.

5. Consumer Privacy

Associations depend on the ethical and vigilant use of consumer and third-party data to ensure policy, fundraising and programmatic communications are effectively delivered to their members and constituencies. ASAE supports policies that balance the need to protect consumer privacy and enable associations and other tax-exempt organizations to effectively pursue their missions.

6. Lobby Disclosure Legislation

ASAE strongly supports progressive and meaningful lobbying disclosure, including a clear and concise definition of lobbying as a First Amendment right guaranteed by the United States Constitution. Requirements for lobbying disclosure and registration should be simple and designed to elicit only the information required by statute. It will remain critical to ensure any future reforms are undertaken with an acute sensitivity to the preservation of First Amendment rights.

7. Federal Grant Money and Advocacy

ASAE strongly supports current law, which states federal grant money cannot be used for legislative advocacy of any kind. We agree it is inappropriate for American tax dollars to be used in attempting to influence legislation or agency action. It is important, however, that associations retain the right to fully advocate on behalf of their members and provide expertise and services to the federal government by accepting grant money to perform functions the government has chosen not to do directly. Additionally, organizations should not be restricted from using their own funds to play an active role in public policy. It remains critical that any changes in lobbying or tax statutes be undertaken with an acute sensitivity to the preservation of the First Amendment rights of association professionals to speak without impediment, assemble and petition the government for redress of grievances.

8. Self-Regulation

ASAE supports efforts to reduce the antitrust risks that inhibit associations from developing and expanding voluntary programs for self-regulation of business, professions or other constituencies in the public interest. These programs include standards and certification, professional credentialing, business and professional codes, dispute resolution and consumer redress.

With regard to certification, credentialing and licensure, ASAE opposes legislation that would undermine non-governmental, private certification organizations in their activities or limit the recognition of certifications developed or offered by such organizations. ASAE promotes the best interests of those who use or rely on professional certification—such as employers, reimbursors and the general public—as well as of individual professionals themselves who achieve or aspire toward professional certification status.

9. Nonprofit Postal Rates

ASAE advocates continuation of favorable postal rates for qualified nonprofit mailers and maximum levels of federal funding for this purpose. Nonprofit mail is extremely important to many associations for communications and fundraising appeals to donors, members and the

public. ASAE favors broad eligibility criteria for nonprofit mailers and maintenance of high quality, preferred-rate mail service.

10. Associations and Liability

ASAE favors legislation to relieve unwarranted legal risks to associations and association volunteers.

11. Travel & Meetings

As the association community depends on a viable travel and tourism industry and vice versa, ASAE supports advancing domestic and international travel initiatives that balance the need for homeland security with the business needs of associations. ASAE also acknowledges the particular needs of the meetings industry and understands the importance of sustaining fundamental relationships when negotiating, developing and executing events. ASAE favors policies that facilitate international attendance at U.S.- based meetings and conferences. ASAE also opposes the continued promulgation of new rules or budgetary constraints that restrict or discourage government employee attendance at association meetings and conferences.

12. Communication Between Associations and Members

ASAE fully supports the right of associations to share information about programs, products and services with members. To that end, ASAE believes that all information regardless of the communication delivery methods – including faxes, emails and other forms of electronic communication – are within the primary purpose of associations and, therefore, opposes efforts to deem such communication as “commercial” activities, thereby forcing associations to comply with laws and regulations imposed on for-profit entities.

13. Nonprofit Governance

ASAE advocates a transparent relationship among tax-exempt organizations, members, donors and the public. ASAE also believes that organizations participating in questionable activities should be properly investigated and, if warranted, prosecuted under the full extent of the law. Nevertheless, with the advancement of legislative and regulatory issues that impact the governance of tax-exempt organizations, ASAE calls for careful consideration and full vetting of such initiatives to ensure they do not cause harm nor impose overly burdensome rules. Lastly, ASAE supports policies that protect donor confidentiality of tax-exempt organizations that generally do not receive tax-deductible contributions.

14. Department of Labor Overtime Rule

ASAE advocates for a Department of Labor overtime rule that raises the minimum salary level to a benchmark no higher than the 25th percentile of the average wages of full-time salaried workers in the lowest wage Census region. This would increase the minimum salary level above the current 20th percentile benchmark, without requiring dramatic changes to the budgets and organizational structures of nonprofit and for-profit employers.

ASAE believes that the reclassifications resulting from a higher minimum salary could harm currently exempt junior and mid-level employees who would have to be reclassified from salaried professionals to hourly wage earners, due to the need for nonprofit associations to control overtime costs. Currently, associations provide exempt employees opportunities to participate in work experiences designed primarily to provide them professional growth or to develop connections within their chosen field, but many associations will no longer be able to

afford to do so. Nonexempt employees often have more limited workplace flexibility options due to the need to track hours and limit overtime.

To cushion some of these impacts, if the current salary level for exemption is raised, ASAE also calls for new regulations on the calculation of overtime compensation for nonprofit sector employees. As an exception to the current regulations that require that overtime be calculated exclusively on a workweek basis, ASAE proposes that nonprofit employers could have the option to select a biweekly overtime calculation, in which overtime premium pay would be due for any hours worked above 80 in a two-week period. This recognizes that nonprofit sector work is often variable, rather than fitting neatly into a Monday through Friday workweek. Under a biweekly calculation approach, nonprofit employers and employees would have the flexibility to balance workloads, offsetting longer workweeks with time off within a two-week period.