

Election Guidelines for Churches and Pastors

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As the elections approach, the need for clear guidelines on the permissible political activities of churches and pastors becomes great.

These guidelines are recommended to insure that churches and pastors conform with the law. While the law may allow variations from these guidelines, experience has shown that the safest and best course for these organizations and individuals is to act in conformance with these recommendations.

One caution: state laws may be more restrictive than these guidelines and, therefore, in applying them to specific situations, particularly state elections, you should consult your own local counsel.

IRS Tax-Exempt Status of Churches

Almost all churches are exempt under Section 501(c)(3) of the Internal Revenue Code on the basis that they are "operated exclusively for religious, charitable ... or educational purposes." As a 501(c)(3) exempt organization, a church:

- (1) Is exempt from paying corporate income taxes, and donations to it are tax deductible on federal tax returns.
- (2) May expend funds for religious, charitable, and educational purposes and an insubstantial amount on lobbying and to promote legislation.

A 501(c)(3) exempt organization, however, may not "participate in, or intervene in (including the publishing or disturbing of statements), any political campaign on behalf of any candidate for public office." Thus, a church may not participate in a political campaign by expenditure of its funds. Not all political activity, which would influence a political campaign, falls under this prohibition.

Political Activities

Political activities referred to here are activities which influence the election of candidates for political office most of which are referred to as electioneering. Activities which can influence the election of a political candidate are quite broad and range from contributions to a political candidate to activities such as publishing the voting records of incumbents running for reelection. Only some of these activities are considered active electioneering which cannot be done by a church—some of this activity can be done by a 501(c)(3) organization; it depends on the type of activity.

Active electioneering cannot be done by a church. Active electioneering involves actions such as endorsement of candidates and expenditures of funds to expressly advocate the

election or defeat of a candidate for political office. Active electioneering is of three types:

- (1) A direct contribution which is a monetary contribution given to a candidate.
- (2) In-kind contributions which include giving things of value to a candidate (such as a church mailing list) and paying for a communication which expressly advocates the election or defeat of a clearly identified candidate made in consultation with or with the knowledge of the candidate.
- (3) Independent expenditures which are expenditures expressly advocating the election or defeat of a political candidate made without the knowledge of or consultation with any candidate.

Individuals, however, such as pastors, may participate in political campaigns, as long as they do so as individuals, not in the name of the church. Any individual, including a pastor, may wear different hats at different times and, therefore, be involved in political activity, as long as he is wearing the right hat.

The following is a list of activities that may be considered political activities in the broad sense and that a church or pastor, in his individual capacity and using his own funds, may wish to do. A "yes" response means the activity is permissible, a "no" means it is not.

- (1) Discuss the Positions of Candidates on Public Issues – CHURCH - YES / PASTOR - YES
- (2) Endorsement of Political Candidates – CHURCH - NO / PASTOR - YES
- (3) Contributions to Political Candidates – CHURCH - NO / PASTOR - YES
- (4) In-Kind Expenditures in Favor of or Against Political Candidates – CHURCH - NO / PASTOR - YES
- (5) Independent Expenditures in Favor of or Against Political Candidates – CHURCH - NO / PASTOR - YES
- (6) Contributions to PACs – CHURCH - NO / PASTOR - YES
- (7) Payment of Expenses for Attendance at Caucus of State/National Convention – CHURCH - NO / PASTOR - YES
- (8) Appearance of Political Candidate at Church Meeting or Service – CHURCH - YES / PASTOR - N/A

- (9) Distribute:
 - (a) Candidate Surveys – CHURCH - YES / PASTOR - YES
 - (b) Voting Records – CHURCH - YES / PASTOR - YES
 - (c) Candidate Political Statement – CHURCH - NO / PASTOR – YES

- (10) Distribution by Others of Candidate Political Statements in Church Parking Lot – CHURCH - YES / PASTOR - N/A
- (11) Rent Church List (at Market Value) – CHURCH - YES / PASTOR - N/A
- (12) Non-Partisan Voter Education and Registration – CHURCH - YES / PASTOR – YES
- (13) Church Bulletin or Newsletter:
 - (a) Political Ads at Regular Rate – CHURCH - YES / PASTOR - N/A
 - (b) Political Ads at Less than Regular Rate – CHURCH - NO / PASTOR - N/A
 - (c) News Stories – CHURCH - YES / PASTOR - N/A
 - (d) Editorials – CHURCH - NO / PASTOR - N/A