

IRS Fact Sheet

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Election Year Activities and the Prohibition on Political Campaign Intervention for Section 501(c)(3) Organizations

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The Internal Revenue Service (IRS) is releasing this fact sheet to provide information to help section 501(c)(3) organizations stay in compliance with the federal tax law. Many of the types of political intervention activities addressed in the fact sheet were those that came under scrutiny during the 2004 election cycle. The contents reflect the IRS interpretation of tax laws enacted by Congress, Treasury regulations, and court decisions. The information is not comprehensive, however, and does not cover every situation. Thus, it is not intended to replace the law or be the sole source of information. The resolution of any particular issue may depend on the specific facts and circumstances of a given taxpayer.

With the 2006 campaign season approaching, the IRS is launching enhanced education and enforcement efforts, based on the findings and analysis of the 2004 election cycle. The IRS is providing this fact sheet to help ensure that charities have enough advance notice of the types of problems that have occurred seen, the legal strictures against engaging in political activities and how to avoid these problems.

The IRS considers this fact sheet a living document, one that will be revised to take into account future developments and feedback. This fact sheet is the beginning of the IRS effort to increase the educational material available to the community. The IRS encourages comments which may be submitted to the IRS at the following addresses:

Internal Revenue Service
1111 Constitution Avenue, NW
Washington, DC 20224
Attn: SE:T:EO:CEO
-or-
tege.eo.ceo@irs.gov

Churches should also see Publication 1828, *Tax Guide for Churches and Religious Organizations*.

Election Year Activities and the Prohibition on Political Campaign Intervention for Section 501(c)(3) Organizations

During election campaigns, many churches, universities, hospitals, social service providers, and other section 501(c)(3) organizations are uncertain about the extent to which they can discuss issues of importance in the campaigns or interact with candidates for public office. They are also uncertain about the role they can play in encouraging citizens to register and

vote. This fact sheet is intended to help organizations understand what they can and cannot do when an election campaign is under way.

The Prohibition on Political Campaign Intervention

Under the Internal Revenue Code, all section 501(c)(3) organizations are absolutely prohibited from directly or indirectly participating in, or intervening in, any political campaign on behalf of (or in opposition to) any candidate for elective public office. The prohibition applies to all campaigns including campaigns at the federal, state and local level. Violation of this prohibition may result in denial or revocation of tax-exempt status and the imposition of certain excise taxes. Those section 501(c)(3) organizations that are private foundations are subject to additional restrictions that are not described in this fact sheet.

What is Political Campaign Intervention?

Political campaign intervention includes any and all activities that favor or oppose one or more candidates for public office. The prohibition extends beyond candidate endorsements. Contributions to political campaign funds or public statements of position (verbal or written) made by or on behalf of an organization in favor of or in opposition to any candidate for public office clearly violate the prohibition on political campaign intervention. Distributing statements prepared by others that favor or oppose any candidate for public office will also violate the prohibition. Allowing a candidate to use an organization's assets or facilities will also violate the prohibition if other candidates are not given an equivalent opportunity. Although section 501(c)(3) organizations may engage in some activities to promote voter registration, encourage voter participation, and provide voter education, they will violate the prohibition on political campaign intervention if they engage in an activity that favors or opposes any candidate for public office. Certain activities will require an evaluation of all the facts and circumstances to determine whether they result in political campaign intervention.

Voter Education, Voter Registration and Get-Out-the-Vote Drives

Section 501(c)(3) organizations are permitted to conduct certain voter education activities (including the presentation of public forums and the publication of voter education guides) if they are carried out in a non-partisan manner. In addition, section 501(c)(3) organizations may encourage people to participate in the electoral process through voter registration and get-out-the-vote drives, conducted in a non-partisan manner. On the other hand, voter education or registration activities conducted in a biased manner that favors (or opposes) one or more candidates is prohibited.

Example 1: B, a section 501(c)(3) organization that promotes community involvement, sets up a booth at the state fair where citizens can register to vote. The signs and banners in and around the booth give only the name of the organization, the date of the next upcoming statewide election, and notice of the opportunity to register. No reference to any candidate or political party is made by the volunteers staffing the booth or in the materials available at the booth, other than the official voter registration forms which allow registrants to select a party affiliation. B is not engaged in political campaign intervention when it operates this voter registration booth.

Example 2: C is a section 501(c)(3) organization that educates the public on environmental issues. Candidate G is running for the state legislature and an important element of her platform is challenging the environmental policies of the incumbent. Shortly before the election, C sets up a telephone bank to call registered voters in the district in which Candidate G is seeking election. In the phone conversations, C's representative tells the voter about the importance of environmental issues and asks questions about the voter's views on these issues. If the voter appears to agree with the incumbent's position, C's representative thanks the voter and ends the call. If the voter appears to agree with Candidate G's position, C's representative reminds the voter about the upcoming election, stresses the importance of voting in the election and offers to provide transportation to the polls. C is engaged in political campaign intervention when it conducts this get-out-the-vote drive.

Individual Activity by Organization Leaders

The political campaign intervention prohibition is not intended to restrict free expression on political matters by leaders of organizations speaking for themselves, as individuals. Nor are leaders prohibited from speaking about important issues of public policy. However, for their organizations to remain tax-exempt under section 501(c)(3), leaders cannot make partisan comments in official organization publications or at official functions of the organization. To avoid potential attribution of their comments outside of organization functions and publications, organization leaders who speak or write in their individual capacity are encouraged to clearly indicate that their comments are personal and not intended to represent the views of the organization.

Example 3: President A is the Chief Executive Officer of Hospital J, a section 501(c)(3) organization, and is well known in the community. With the permission of five prominent healthcare industry leaders, including President A, who have personally endorsed Candidate T, Candidate T publishes a full-page ad in the local newspaper listing the names of the five leaders. President A is identified in the ad as the CEO of Hospital J. The ad states, "Titles and affiliations of each individual are provided for identification purposes only." The ad is paid for by Candidate T's campaign committee. Because the ad was not paid for by Hospital J, the ad is not otherwise in an official publication of Hospital J, and the endorsement is made by President A in a personal capacity, the ad does not constitute campaign intervention by Hospital J.

Example 4: President B is the president of University K, a section 501(c)(3) organization. University K publishes a monthly alumni newsletter that is distributed to all alumni of the university. In each issue, President B has a column titled "My Views." The month before the election, President B states in the "My Views" column, "It is my personal opinion that Candidate U should be reelected." For that one issue, President B pays from his personal funds the portion of the cost of the newsletter attributable to the "My Views" column. Even though he paid part of the cost of the newsletter, the newsletter is an official publication of the university. Because the endorsement appeared in an official publication of University K, it constitutes campaign intervention by University K.

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First appeared as part of the conference materials for the
40th Annual Nonprofit Organizations Institute session

"Social Media Do's & Don'ts"