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CHARITIES MAY NOT ENGAGE IN POLITICAL CAMPAIGN ACTIVITIES

WASHINGTON – Charities should be careful that their efforts to educate voters stay within the Internal Revenue Service guidelines for political campaign activities, the tax agency said Wednesday in an election-year advisory.

Organizations described in section 501 (c) (3) of the Internal Revenue Code that are exempt from federal income tax are prohibited from participating or intervening in any political campaign on behalf of, or in opposition to, any candidate for public office. Charities, educational institutions and religious organizations, including churches, are among those that are tax exempt under this code section.

These organizations cannot endorse any candidates, make donations to their campaigns, engage in fund raising, distribute statements, or become involved in any other activities that may be beneficial or detrimental to any candidate.

Whether an organization is engaging in prohibited political campaign activity depends upon all the facts and circumstances in each case. For example, organizations may sponsor debates or forums to educate voters. If the debate or forum shows a preference for or against a certain candidate, however, it becomes a prohibited activity.

The political campaign prohibition of section 501 (c) (3) may be violated even though the organization had a non-partisan motivation for intervening in a campaign. For example, the U.S. Court of Appeals for the Second Circuit held in 1988 that “voter education activities” of the Association of the Bar of the City of New York constituted prohibited campaign activities, even though these activities were nonpartisan and in the public interest. The association rated and published the ratings of candidates for elective judicial office.

The association had been tax-exempt under section 501 (c) (6) -- a provision that permits some political campaign activity -- and had requested reclassification as a 501 (c) (3) organization. The IRS denied the reclassification on the grounds that the association’s rating of candidates violated the political campaign prohibition of that section. The Second Circuit upheld the action. Thus, activities that encourage people to vote for or against a particular

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candidate on the basis of nonpartisan criteria nevertheless violate the political campaign prohibition of section 501 (c) (3).

If the IRS finds a section 501 (c) (3) organization engaged in prohibited campaign activity, the organization could lose its exempt status, or it could be subject to an excise tax on the amount of money spent on that activity.

In cases of flagrant violation of the law, the IRS has specific statutory authority to make an immediate determination and assessment of tax. Also, the IRS can ask a federal district court to enjoin the organization from making further political expenditures.

In addition, contributions to organizations that lose their section 501 (c) (3) status because of political activities are not deductible by the donors for federal income tax purposes.

The IRS issued similar election-year advisories to charities in 1992 and 1996.

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