



COMMISSIONER
TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

April 18, 2008

Democratic National Committee
Attn: Andrew Tobias, Treasurer

Republican National Committee
Attn: Tim Morgan, Treasurer

Democratic Senatorial Campaign
Committee
Attn: John B. Poersch Jr., Treasurer

National Republican Senatorial Committee
Attn: Stan Huckaby, Treasurer

Democratic Congressional Campaign
Committee
Attn: Brian L. Wolff, Treasurer

National Republican Congressional
Committee
Attn: Keith A. Davis, Treasurer

Green Senatorial Campaign Committee
Attn: David Jette, Treasurer

Green Party of the United States
Attn: Jody Grage, Treasurer

Reform Party of the USA
Attn: Beverly Kennedy, Treasurer

Constitution Party National Committee
Attn: Joe Sanger, Treasurer

Natural Law Party of the United States
Attn: Leslie Brooks, Treasurer

Socialist National Committee
Attn: David Schaich, Treasurer

Libertarian National Committee
Attn: Aaron Starr, Treasurer

Dear Sir or Madam:

During each presidential election, press reports often raise questions about the role charitable organizations may play in the political debate. This year is no exception. That is why we have issued a news release on the subject in every presidential election year since 1992 (e.g. IR-2007-190, issued November 19, 2007, copy enclosed).

The reason I am writing is to provide you with the rules charitable organizations, including churches, must follow with respect to political activity. With this knowledge, you can help ensure that during this election season your committee and the candidates you support do not inadvertently jeopardize the tax-exempt status of any charitable organization.

Organizations described in section 501(c)(3) of the Internal Revenue Code that are exempt from federal income tax are prohibited from directly or indirectly 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.

Whether a tax-exempt charitable organization is engaging in prohibited political campaign

activity depends upon all the facts and circumstances in each case. For example, organizations may encourage people to participate in the electoral process by sponsoring debates or forums to educate voters, distributing voter guides, or conducting voter registration or get-out-the-vote drives. If the debate or forum, voter guide, or voter registration or get-out-the-vote drive shows a preference for or against a certain candidate or party, however, it becomes a prohibited activity.

Thus, under federal law tax-exempt charitable organizations are prohibited from endorsing any candidates, making donations to their campaigns, engaging in fund-raising, distributing statements, or becoming involved in any other activities that may be beneficial or detrimental to any candidate. Even activities that encourage people to vote for or against a particular candidate on the basis of nonpartisan criteria violate the political campaign prohibition of section 501(c)(3).

The federal courts have upheld this prohibition on political campaign activity, most recently in Branch Ministries v. Rossotti, 211 F.3d 137 (D.C. Cir. 2000). The courts have held that it is not unconstitutional for the tax law to impose conditions, such as the political campaign prohibition, upon exemption from federal income tax.

The prohibition on political campaign activity applies only to tax-exempt charitable organizations, not to the activities of individuals in their private capacity. The political campaign activity prohibition is not intended to restrict free expression on political matters by leaders of charitable organizations, including churches, 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 organization functions, including official church publications and functions.

Similarly, the prohibition on political campaign activity does not prohibit charitable organizations from having contact of any kind with individuals who are candidates for public office. Depending on the facts and circumstances, a charitable organization, such as a church, may invite political candidates to speak in their capacity as candidates without jeopardizing its tax-exempt status if the organization takes steps to ensure that:

- It provides an equal opportunity to other political candidates seeking the same office,
- It does not indicate any support of or opposition to any candidate, and
- No political fund-raising occurs in conjunction with the speech.

A charitable organization may invite a political candidate to speak in his or her individual (non-candidate) capacity if the organization takes steps to ensure that:

- The candidate speaks only in a non-candidate capacity,
- Neither the candidate nor any representative of the organization makes any mention of the election or candidacy of the individual, and
- No campaign activity occurs in connection with the candidate's attendance.

If the IRS finds a section 501(c)(3) organization engaged in prohibited campaign activity, the organization could lose its tax-exempt status and it could be subject to an excise tax on the

amount of money spent on that activity. Since 2004, the IRS has conducted limited scope examinations of allegations of political campaign activity by section 501(c)(3) organizations. While less than half of the allegations received resulted in an examination, the IRS found political campaign intervention in over two-thirds of the organizations examined. As we are primarily interested in educating organizations and promoting compliance, in most of these cases we alerted the organization to the violation and strongly cautioned them not to repeat the activity. We proposed revocation only in a few egregious cases.

For more detailed information, see our website at www.irs.gov/eo. There, in addition to other items, you will find:

- IRS Revenue Ruling 2007-41 that outlines a number of scenarios to help charities and churches understand the ban on political campaign activity and actions that may arise, and
- Publication 1828, *Tax Guide for Churches and Religious Organizations*, that discusses the political campaign prohibition as it applies to churches.

I hope this information is helpful. If you have any questions, please contact Judith Kindell at (202) 283-8964.

Sincerely,

/s/

Steven T. Miller

Enclosures