



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, DC 20224

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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MEMORANDUM FOR ALL EO REVENUE AGENTS

FROM: Marsha A. Ramirez /s/ *Marsha A. Ramirez*
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SUBJECT: Political Campaign Activity on the Internet

This directive relates to the examination of cases involving allegations of political activity on the Internet as part of the [Political Activity Compliance Initiative \(PACI\)](#). As such, it is to be incorporated in the IRM within the prescribed timelines.

With the growth of the Internet, more cases have raised issues concerning whether a section 501(c)(3) organization has participated or intervened in a political campaign through its Internet activities, particularly through providing links to the Web sites of other organizations. Revenue Ruling 2007-41, 2007-25 I.R.B. 1421 (June 18, 2007), provides guidance regarding political campaign activities in 21 fact situations, including three, Situations 19, 20, and 21, applying the law to an organization's use of its Internet Web site.

Experience indicates that there are numerous cases involving potential political campaign intervention in the form of communications posted on Web sites operated by section 501(c)(3) organizations. Many of these communications include links to Web sites of other organizations. The analysis of cases involving links on a section 501(c)(3) organization Web site involves determining whether material on a linked Web site is attributable to the section 501(c)(3) organization.

There are several possible characterizations of such links. One suggests the link is akin to a referral from one source of information to another that the viewer can pursue or not pursue at his or her discretion. Another suggests the link is analogous to a distribution by the section 501(c)(3) organization of the information contained on the linked Web page. However, neither of these characterizations appropriately reflects the facts and circumstances in all cases, nor offers a single approach to resolving all such cases. As Revenue Ruling 2007-41 notes, the context for the link

on the organization's Web site matters, as does the directness of the links between the section 501(c)(3) organization's Web site and a Web page favoring or opposing a candidate. The principles articulated in the revenue ruling are reinforced by work on these cases which suggests that electronic proximity – including the number of “clicks” that separate the objectionable material from the section 501(c)(3) organization's Web site – is a significant consideration. To best employ resources in this area, EO will distinguish between cases involving unrelated organizations and those involving related organizations.

Cases Involving Links Between Unrelated Organizations

Where a case involves a link between a section 501(c)(3) organization's Web site and the site of an unrelated organization (whether or not exempt), EO will pursue the case if the facts and circumstances indicate that the section 501(c)(3) organization is promoting, encouraging, recommending or otherwise urging viewers to use the link to get information about specific candidates and their positions on specific issues. Again, analysis of the context around the link is a key factor. Further, where the facts and circumstances suggest that a section 501(c)(3) organization is using a link between Web sites (other than a link to a related section 501(c)(4) organization, which is discussed below) to indirectly communicate a message that could well be a violation of the law were it done directly, EO will pursue the case.

Cases Involving Links Between Related Organizations

Additional considerations exist, however, in the case of related organizations. Enforcement in this area requires EO to consider the implications of *Taxation with Representation of Washington*, particularly Justice Blackmun's concurring opinion. That opinion emphasizes the formal corporate separation between a section 501(c)(3) organization and its related section 501(c)(4) organization. Because this added consideration can complicate the analysis in this area, EO will focus on analyzing the context around a link in the unrelated organization cases, and not pursue, at this time, cases involving a link between the Web site of a section 501(c)(3) organization and the home page of a Web site operated by a related section 501(c)(4) organization.

In addition to the above scenarios, there are situations where a section 501(c)(3) organization itself (1) takes a position on an issue, and (2) provides information about candidate positions on the same issue, placing the organization at risk of having intervened in a political campaign. The risk arises, and the case should be pursued, even if the two elements are in separate parts of the organization's Web site, or if one element is on the Web site and the other is not. Factors to be considered in analyzing the connection between the elements include, but are not limited to, timing, proximity and references between the elements.

All other cases involving possible political campaign intervention through use of the Internet should be coordinated with the PACI Team. If you have any questions please contact Vincent Fusco, PACI Team Leader at 216-520-7027.