

Educational; political activity. Certain 'voter education' activities conducted in a nonpartisan manner by an organization recognized as exempt under section 501(c)(3) of the Code will not constitute prohibited political activity disqualifying the organization from exemption; Rev. Rul. 78-160 revoked.

Advice has been requested whether certain organizations, which otherwise qualify for exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code of 1954, will be considered 'action' organizations and not exempt under section 501(c)(3) if they undertake 'voter education' activities in the situations described below.

Section 501(c)(3) of the Code provides for the exemption from Federal income tax of organizations that are organized and operated exclusively for charitable purposes and that do 'that participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office.'

Section 1.501(c)(3)-1(c)(3)(i) of the Income Tax Regulations states that an organization is not operated exclusively for one or more exempt purposes if it is an 'action' organization. Section 1.501(c)(3)-1(c)(3)(iii) defines an 'action' organization as an organization which

'participates or intervenes, directly or indirectly, in any political campaign on behalf of or in opposition to any candidate for public office. ... Activities which constitute participation or intervention in a political campaign on behalf of or in opposition to a candidate include, but are not limited to, the publication or distribution of written statements or the making of oral statements on behalf of or in opposition to such a candidate.'

Whether an organization is participating or intervening, directly or indirectly, in any political campaign on behalf of or in opposition to any candidate for public office depends upon all of the facts and circumstances of each case. Certain 'voter education' activities conducted in a non-partisan manner may not constitute prohibited political activity under section 501(c)(3) of the Code. Other so-called 'voter education' activities, however, may be proscribed by the statute. The following situations are illustrative:

Situation 1

Organization A has been recognized as exempt under section 501(c)(3) of the Code by the Internal Revenue Service. As one of its activities, the organization annually prepares and makes generally available to the public a compilation of voting records of all Members of Congress on major legislative issues involving a

wide range of subjects. The publication contains no editorial opinion, and its contents and structure do not imply approval or disapproval of any Members or their voting records.

The 'voter education' activity of Organization A is not prohibited political activity within the meaning of section 501(c)(3) of the Code.

Situation 2

Organization B has been recognized as exempt under section 501(c)(3) of the Code by the Internal Revenue Service. As one of its activities in election years, it sends a questionnaire to all candidates for governor in State M. The questionnaire solicits a brief statement of each candidate's position on a wide variety of issues. All responses are published in a voters guide that it makes generally available to the public. The issues covered are selected by the organization solely on the basis of their importance and interest to the electorate as a whole. Neither the questionnaire nor the voters guide, in content or structure, evidences a bias or preference with respect to the views of any candidate or group of candidates.

The 'voter education' activity of Organization B is not prohibited political activity within the meaning of section 501(c)(3) of the Code.

Situation 3

Organization C has been recognized as exempt under section 501(c)(3) of the Code by the Internal Revenue Service. Organization C undertakes a 'voter education' activity patterned after that of Organization B in Situation 2. It sends a questionnaire to candidates for major public offices and uses the responses to prepare a voters guide which is distributed during an election campaign. Some questions evidence a bias on certain issues. By using a questionnaire structured in this way, Organization C is participating in a political campaign in contravention of the provisions of section 501(c)(3) and is disqualified as exempt under that section.

Situation 4

Organization D has been recognized as exempt under section 501(c)(3) of the Code. It is primarily concerned with land conservation matters.

The organization publishes a voters guide for its members and others concerned with land conversation issues. The guide is intended as a compilation of incumbents' voting records in selected land conversation issues of importance to the organization and is factual in nature. It contains no express statements in support of or in opposition to any candidate. The guide is widely distributed among the electorate during an

election campaign.

While the guide may provide the voting public with useful information, its emphasis on one area of concern indicates that its purpose is not non-partisan voter education.

By concentrating on a narrow range of issues in the voters guide and widely distributing it among the electorate during an election campaign, Organization D is participating in a political campaign in contravention of the provisions of section 501(c)(3) and is disqualified as exempt under that section.

Pursuant to the authority of section 7805(b) of the Code, the conclusion of this Revenue Ruling will not be applied to taxable years beginning before January 1, 1979, in the case of any section 501(c)(3) organization holding an exemption letter that indicated in its Application for Recognition of Exemption (Form 1023) that it would engage in the type of 'voter education' activities which constitute participation or intervention in a political campaign under this ruling.

Rev. Rul. 78-160, page 153, this Bulletin, is revoked.