

The rules for churches 'getting political' are complex, intricate

By Dave Moja



The TVs are squawking, the blogs are ablaze, conservative radio is, of course, fanning the flames. The 2010 mid-term election season will affect everyone in the church pews of America. Let's face it, the government has passed legislation (and is contemplating more) that virtually all of the members of your congregation care about — one way or the other. Has there been a push to bring candidates in to address the issues? Does your pastor feel led to support or oppose various candidates?

It seems like a good time to review the rules of what a church — as a 501(c)(3) organization — can and cannot do with regard to speaking out about elections and politicians. Certainly churches and their leaders can talk about issues that are important to their congregations and that have scriptural ramifications — as long as they do not support or oppose candidates for public office in the process.

Revenue Ruling 2007-41 (Fact Sheet 2006-17) provides guidance from the IRS on how your church can conduct these activities, without endangering the exempt status of your church. The ruling lays out 21 “situations” that show how to plan, design and implement activities that will not be deemed “out of bounds” for 501(c)(3) organizations. The IRS has also provided good guidance on this issue in Publication 1828, Tax Guide for Churches and Religious Organizations.

The Alliance Defense Fund has been leading the charge to challenge the statutory prohibition against church leaders speaking out about candidates from the pulpit.

‘Pulpit Initiative’

Operation Freedom Sunday 2008 was enjoined by 33 pastors and their churches across the U.S. with the goal of bringing the issue to a head. The Sunday prior to the 2008 general elections, these pastors intentionally spoke out in favor of and/or in opposition to various candidates for public office. To date, the IRS has not responded to the 2008 Freedom Sunday issue. You can find out more about this “Pulpit Initiative” at www.speakupmovement.org.

Although you should study Revenue Ruling 2007-41 and all of its 21 “situations” with care, we will focus on the three examples in the ruling that specifically mention churches. (Note that many of the 21 situations could apply to churches and/or church leaders.)

Pastor Clyde is the minister of Brushwood Community Church, (remember a church is a section

501(c)(3) organization). Leela Smith is an incumbent candidate for public office. Pastor Clyde is well known in the community. Three weeks before the election, he attends a press conference at Leela Smith's campaign headquarters and states that Leela Smith should be reelected. Pastor Clyde does not say he is speaking on behalf of Brushwood Community Church. His endorsement is reported on the front page of the local newspaper and he is identified in the article as the minister of the church. Because pastor Clyde did not make the endorsement at an official church function, in an official church publication or otherwise use the church's assets, and because he did not state that he was speaking as a representative of Brushwood Community Church, his actions do not constitute campaign intervention by the church.

Tax exempt status

If pastor Clyde had made the announcement from the pulpit, during a regular church service, the church could be in danger of losing its tax exempt status. That could mean that all contributions to the church after the date the exemption is lost would not be tax deductible by the donors.

Also, we would suggest that the pastor clearly state that he is speaking as an individual. The IRS clearly indicates that these rules are not designed to diminish an individual's right to free expression. The rules are designed to prohibit charitable assets from being used to support or oppose a candidate for public office.

In another example, minister Green is the minister of Second Church, a section 501(c)(3) organization. The Sunday before the November election, Green invites Senate Candidate Bob Pershing to preach to his congregation during worship services. During his remarks, Pershing states, "I am asking not only for your votes, but for your enthusiasm and dedication, for your willingness to go the extra mile to get a very large turnout on Tuesday."

Campaign intervention

Minister Green invites no other candidate to address his congregation during the Senatorial campaign. Because these activities take place during official church services, they are attributed to Second Church. By selectively providing church facilities to allow candidate Pershing to speak in support of his campaign, Second Church's actions constitute political campaign intervention that could endanger the church's exempt status.

The revenue ruling makes it clear that there are circumstances when a candidate may speak at your church. If candidates are invited to speak the church should give equal opportunity for all those running for a particular office to have an equal opportunity to speak and any questions from a moderator should be neutral in content. The church should be careful to not say things that would support or oppose any of the candidates in the race.

Churches should also consider website content in the context of potential political intervention. For example, Church by the Sea, a section 501(c)(3) organization, maintains a website that includes such information as biographies of its ministers, times of services, details of community outreach programs and activities of members of its congregation. Ralph Norton, a member of the congregation of Church by the Sea, is running for a seat on the town council. Shortly before the election, Church by the Sea posts the following message on its site, "Lend your support to Ralph Norton, your fellow parishioner,

in Tuesday's election for town council." Church by the Sea has intervened in a political campaign on behalf of candidate Norton.

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