

CHURCHES AND 501(c)(3) ORGANIZATIONS KNOW YOUR RIGHTS

CHURCHES AND/OR 501(c)(3) ORGANIZATIONS ARE ALLOWED CERTAIN POLITICAL ACTIVITY

ACTIVITIES ALLOWED

- 1) **Voter Registration:** Churches and/or 501(c)(3) organizations may conduct voter registration activities provided they do not benefit any particular candidate or political party.
- 2) **Candidate Appearances:** A candidate may speak at a function such as a banquet, so long as there is no request for support or for funds to be used in a political campaign. In addition, candidates are allowed to deliver a public prayer, give a sermon, personal testimony or read a passage of scripture at public functions. **IT IS NOT REQUIRED THAT OPPOSITION CANDIDATES ALSO BE INVITED TO SUCH EVENTS.** (See Example 2)
- 3) **Use of Mailing Lists:** Political candidates and parties can buy or rent mailing lists from churches or 501(c)(3) organizations so long as the lists are rented at fair market value and made available to all candidates.
- 4) **Candidate Endorsements:** Individuals who are officials of 501(c)(3) organizations, **including pastors**, have personal constitutional rights to political expression, and may endorse or oppose candidates for office without endangering the tax-exempt status of their organizations. When endorsements are made it should clearly be stated that such an endorsement or opposition is undertaken by a person acting as an individual and not on behalf of the organization.
- 5) **Political Forums:** Public political forums to discuss issues are allowable so long as all viable candidates for office are invited to speak and given an opportunity to be heard.

DIRECTLY INFLUENCING LEGISLATION

Churches and 501(c)(3) organizations may influence the passage of legislation so long as such efforts are not a "substantial part" of their activities. In most instances the IRS views "substantiality" as more than 5% of an organization's total activities, including expenditures, to advocate or oppose legislation. **IN ADDITION, A CHURCH MAY SPEND UP TO 20% OF TOTAL BUDGET ON DIRECT AND INDIRECT LOBBYING IF A FORM 5768 IS FILED WITH THE IRS.**

Direct Lobbying Allowed Up To 5% (20% if Form 5768 Filed) A direct lobbying communication is one that:

- 1) States that the recipient should contact legislators or any government employees involved in the formulation of legislation; or
- 2) States the address, telephone number or other contact information about the legislator or employee of the legislative body; or
- 3) Provides a petition, postcard, or similar material; or
- 4) Identifies one or more legislators who will vote on the legislation as either: a) opposing the communication's view; b) being undecided; c) being a recipient's representative in the legislature; or d) being a member of the legislative committee that will consider the legislation.

OTHER ACTIVITIES ALLOWED

Advocating or commenting on a piece of legislation without a call to specific action on the part of the recipient is not a lobbying communication. The IRS also allows for 501(c)(3) organizations to undertake certain activities as *exceptions* to the term *influencing legislation*. Such exceptions include:

- 1) **Membership communications:** Communication from an organization to its members whether by magazine, newsletter, conference, or any other method will not be deemed *influencing legislation* unless the communication directly encourages the members to lobby. (See example 1)
- 2) **Discussion of broad social, economic and similar policy issues:** This exception permits organizations to discuss issues of concern – even if specific legislation on the matter is pending – so long as the discussion does not address the merits of specific legislation. (See example 1)
- 3) **Direct lobbying on matters directly affecting the organization:** Organizations may engage in direct lobbying on matters affecting their own powers, duties, tax-exempt status, or the deduction of contributions to them. Such activities are not considered *influencing legislation*.

COMMENTING ON JUDICIAL NOMINEES

As a final note, it should be mentioned that the IRS has concluded that attempts by 501(c)(3) organizations to influence the Senate confirmation of an individual nominated by the President to serve as a federal judge do not constitute participation or intervention in a political campaign, as prohibited by Section 501(c)(3). Such actions do, however, constitute attempts to *carry on propaganda and influence legislation* within the meaning of the IRS Code. Such efforts are thus, permissible subject to the limits of the *substantiality* test.

Examples:

- 1) Pastors may emphatically state their opposition to abortion or stem cell research with no limitations. Pastors may request members of the congregation to contact their legislators regarding abortion legislation as long as they are not told specifically what to communicate. **HOWEVER, IF A PASTOR REQUESTS SPECIFIC COMMUNICATION FROM MEMBERS TO LEGISLATORS ON ABORTION LEGISLATION, THE LIMITS ON INFLUENCING LEGISLATION LISTED ABOVE APPLY.**
- 2) Pastors may ask a specific candidate to speak about his faith or pro-life views or other issues at a service or other event so long as the pastor or candidate does not request financial aid or other support. **PASTORS ARE NOT REQUIRED TO INVITE OPPOSING CANDIDATES WHO ARE PRO-ABORTION TO SPEAK.**