

The Restriction of Political Campaign Intervention by Section 501(c)(3) Tax-Exempt Organizations

Under the Internal Revenue Code, all section 501(c)(3) organizations, including churches and religious organizations, are absolutely prohibited from directly or indirectly participating in, or intervening in, any political campaign on behalf of (or in opposition to) any candidate for elective public office.

What is Prohibited

Contributions to political campaign funds or public statements of position (verbal or written) made on behalf of the organization in favor of or in opposition to any candidate for public office have been interpreted by the IRS as being in clear violation of the prohibition against political campaign activity. Violating this prohibition can result in denial or revocation of tax-exempt status and the imposition of certain excise taxes.

What is Allowed

Depending on the facts and circumstance involved, certain activities or expenditures may be allowed. For example, certain voter education activities (including presenting public forums and publishing voter education guides) conducted in a non-partisan manner do not constitute prohibited political campaign activity, according to the IRS. In addition, other activities intended to encourage people to participate in the electoral process, such as voter registration and get-out-the-vote drives, would not be prohibited if conducted in a non-partisan manner.

On the other hand, voter education or registration activities with evidence of bias that (a) would favor one candidate over another; (b) oppose a candidate in some manner; or (c) have the effect of favoring a candidate or group of candidates, would constitute prohibited participation or intervention.

Influencing Legislation

A nonprofit is allowed to influence legislation and will not jeopardize its tax-exempt status as long as the amount of time and resources spent on such activities is not a “substantial part” of its overall activities. Unfortunately, the IRS has never been clearly defined what is meant by “substantial.” The only IRS guidance on the issue is that it will look at “all the pertinent facts and circumstances in each case.” Among the factors the IRS considers are; the time devoted to lobbying, by both your paid and volunteer workers, and the amount of money your organization spends on lobbying. Other factors that could be considered as well, include; the amount of publicity your organization assigns to the activity, the continuous or intermittent nature of your attention to it, and the impact of the lobbying efforts.

DISCLAIMER

This material is presented with the understanding that the author is providing basic information only, and assumes no liability whatsoever in connection with its use. Tax laws are constantly changing, are subject to differing interpretations, and the facts and circumstances in any particular situation may not be the same as those presented here. Therefore, we urge you to do additional research and make sure that you are fully informed and knowledgeable before using the information contained herein.