

SUMMARY AND ANALYSIS

of

IRS REVENUE RULING 2007-41

The Revenue Ruling first summarizes the IRS provisions with regard to section 501(c)(3) organizations, such as churches, namely, that no substantial part of their activities can involve carrying on propaganda or otherwise attempting to influence legislation. Such organizations cannot participate in or intervene at all (including the publishing and distributing of statements) in any political campaign on behalf of or in opposition to any candidate for public office. With regard to the second requirement, actions can be either direct or indirect. Candidate for public office includes candidates on the national, state and local level.

The revenue ruling does not give any examples about voters' guides but does mention them as a problem area. The ruling notes voters guides can show a bias in content or structure with respect to the views of a particular candidate.

The most useful part of the revenue ruling is the 21 factual situations or examples that it offers. Some of the situations are less relevant to our situation or would not be likely to occur frequently. The most relevant and useful factual situations are delineated below:

Situation 4. President B is the president of University K, a section 501(c)(3) organization. University K publishes a monthly alumni newsletter that is distributed to all alumni of the university. In each issue, President B has a column titled "My Views." The month before the election, President B states in the "My Views" column, "It is my personal opinion that Candidate U should be reelected." For that one issue, President B pays from his personal funds the portion of the cost of the newsletter attributable to the "My Views" column. Even though he paid part of the cost of the newsletter, the newsletter is an official publication of the university. Because the endorsement appeared in an official publication of University K, it constitutes a campaign intervention by University K.

Situation 9. Minister F is the minister of Church O, a section 501(c)(3) organization. The Sunday before the November election, Minister F invites Senate Candidate X to preach to her congregation during worship services. During his remarks, Candidate X 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." Minister F invites no other candidate to address her congregation during the Senatorial campaign. Because these activities take place during official church services, they are attributed to Church O. By selectively providing church facilities to allow Candidate X to speak in support of his campaign, Church O's actions constitute political campaign intervention.

The revenue ruling does recognize that candidates could appear and speak or participate as non-candidates.

Situation 11. Chairman H is chairman of the Board of Hospital Q, a section 501(c)(3) organization. Hospital Q is building a new wing. Chairman H invites Congressman Z, the representative for the district containing Hospital Q, to attend the groundbreaking ceremony for the new wing. Congressman Z is running for reelection at the time. Chairman H makes no reference in her introduction to Congressman Z's candidacy or the election. Congressman Z also makes no reference to his candidacy or the election and does not do any political campaign fundraising while at Hospital Q. Hospital Q has not intervened in a political campaign.

The revenue ruling states that section 501(c)(3) organizations must avoid any issue advocacy that functions as campaign intervention. Even if there is no explicit statement telling persons how to vote, an organization delivering such a statement is at risk of violating the campaign intervention prohibition if there is any message favoring or opposing a candidate; a statement could identify a candidate by referring to distinctive features of a candidate's platform.

Situation 16. Candidate A and Candidate B are candidates for the state senate in District W of State X. The issue of State X funding for a new mass transit project in District W is a prominent issue in the campaign. Both candidates have spoken out on the issue. Candidate A supports the new mass transit project. Candidate B opposes the project and supports State X funding for highway improvements instead. P is the executive director of C, a section 501 (c)(3) organization that promotes community development in District W. At C's annual fundraising dinner in District W which takes place in the month before the election in State X, P gives a lengthy speech about community development issues including transportation issues. P does not mention the name of any candidate or any political party. However, at the conclusion of the speech, P makes the following statement, "For those of you who care about quality of life in District W and the growing traffic congestion, there is a very important choice coming up next month. We need new mass transit. More highway funding will not make a difference. You have the power to relieve the congestion and improve your quality of life in District W. Use that power when you go to the polls and cast your vote in the election for your state senator." C has violated the political campaign intervention as a result of P's remarks at C's official function shortly before the election, in which P referred to an upcoming election after stating a position on an issue that is a prominent issue in a campaign that distinguishes the candidates.

Web sites are a new arena regarding these issues. Links to other sites can create problems. The revenue ruling says that the organization is responsible for the consequences and establishing a link even though it does not control the content of the other web site; the ruling notes that web sites that are connected by the links may change from time to time. The content of web sites can also create problems.

Situation 21. Church P, a section 501(c)(3) organization, maintains a web site that includes such information as biographies of its ministers, times of services, details of community outreach programs, and activities of members of the congregation. B, a member the congregation of Church P, is running for town council. Shortly before the

election, Church P posts the following message on its web site, “Lend your support to B, your fellow parishioner, in Tuesday’s election for town council.” Church P has intervened in a political campaign on behalf of B.