

August 23, 2016

Dear Priests, Deacons, and Parish Staff Members,

The upcoming primary election is approaching and will probably be strongly contested in our state. If past elections are any indication, both individuals and groups may attempt to involve churches in their political campaigns. This memo is intended to provide you with some guidance in light of the upcoming election and to clarify what is and is not permissible under current tax law.

The Catholic Church has an important role to play in the public square. As the U.S. Conference of Catholic Bishops has stated, the Catholic Church has a responsibility to “teach fundamental moral principles that help Catholics form their consciences correctly,” “to provide guidance on the moral dimensions of public decisions,” and “to encourage the faithful to carry out their responsibilities in political life.” *Faithful Citizenship*, Part I, Paragraph 15. The conference also noted the need to do so without “endorsing or opposing candidates.”

Currently, the Internal Revenue Code mandates that an organization exempt from income tax under section 501(a) as described in section 501(c)(3) [such as parishes] may not “participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.” This is an absolute prohibition, and one instance of political campaign intervention could lead to the revocation of tax exempt status.

Practically speaking, the prohibition on political campaign intervention includes the following:

- **Making statements (through any medium) of support or opposition for a particular candidate, political party, or political action committee (“PAC”).** No statements of support or opposition to candidates, political parties, or PACs should be made at official parish events, or appear in any parish publication, parish operated website, or be made through parish operated social media. Generally, political signs should not be permitted on church property, although there are some limited exceptions if the Church is a polling place.
- **Providing or soliciting financial support to or for any candidate, political party, or PAC.**

- **Providing or soliciting in-kind support to or for any candidate, political party or PAC.** For example, it would not be permissible for a parish to provide free use of its facilities, equipment, office supplies, staff, volunteers, etc.
- **Soliciting signatures for a petition enabling a candidate to appear on the ballot.**
- **Providing loans or loan guarantees to any candidate, political party, or PAC.**
- **Distributing (or permitting the distribution of) voter education materials on parish property that are biased with respect to any candidate, political party or PAC.** Many voters' guides are put out by interested groups and could be construed as biased in favor of or against a particular candidate. If a parish distributes a biased voters' guide or permits others to distribute biased voters' guides on parish property, the IRS could conclude that the parish is engaging in prohibited campaign intervention. In light of this, and because it would be difficult for parishes to make individualized determinations as to which voters' guides could be considered biased, Bishop Lennon has directed that the only voters' guides that parishes may distribute or allow to be distributed are those that come from the United States Conference of Catholic Bishops, the Ohio Catholic Conference, or the Diocese of Cleveland.
- **There are some restrictions on renting facilities to candidates or political parties.** While renting parish facilities to candidates or political parties for partisan activities is not *per se* prohibited by law, parishes should adhere to the following guidelines: (a) a fair market rate must be charged (i.e. the facility may not be provided free or at a reduced charge); (b) if the parish has a policy of renting only to parishioners or Catholics then it should not make the facility available to candidates or political parties; (c) if the parish does make the facility available to outsiders then the parish may make the facility available to candidates and political parties on the same basis, provided that it must be made equally available to all candidates or parties, with no preference given to any candidate or party; (d) the parish must not advertise, promote, or provide other services in connection with a candidate or political event taking place in its facility; (e) if the parish has never rented its facility, its first rental should not be to a candidate or political party.

With regarding to statements made in an individual capacity, the IRS has opined: "The political campaign activity prohibition isn't intended to restrict free expression on political matters by leaders of churches or religious organizations speaking for themselves, as individuals. Nor are leaders prohibited from speaking about important issues of public policy. However, for their organizations to remain tax exempt under IRC Section 501(c)(3), religious leaders can't make partisan comments in official organization publications or at official church functions. To avoid potential attribution of their comments outside of church functions and publications, religious leaders who speak or

write in their individual capacity are encouraged to clearly indicate that their comments are personal and not intended to represent the views of the organization.”¹ Likewise, pastors and others should not use parish facilities or resources (including parish copy machines, paper, mailing lists, etc.) when participating in political activities.

Also, please note that there is a distinction between “lobbying activity” and political campaign intervention. Lobbying activity relates to attempts to influence legislation, as opposed to the election of political officials. Lobbying activity is permitted so long as it is not a substantial part of an organization’s total activities, as measured by time, effort, expenditures, publicity, and other factors. There is no bright line rule, but existing court decisions and IRS guidance indicate that roughly 5% of an organization’s total activities would likely be construed as insubstantial, and possibly up to 15%.

These and numerous other issues are addressed in greater detail in a memorandum from the Office of General Counsel of the United States Conference of Catholic Bishops. This USCCB memorandum can be accessed on the Internet at:

<http://www.usccb.org/about/general-counsel/political-activity-guidelines.cfm>

It covers many scenarios and is an excellent reference. If you do not have access to the Internet, please let our office know we will send you a copy.

In conclusion, while there are certain prohibitions outlined above that must be followed, parishes should not be fearful of proclaiming moral truth. It is legal for parishes to address the moral and human dimensions of public issues, including church teaching on the right to life, the dignity of the human person, and issues of justice and peace, and to apply Catholic social teaching to legislation and public issues. It is also legal to discuss the primacy of certain issues, such as those involving intrinsically evil acts, over others. Parishes are encouraged to educate parishioners about the issues. In addition, distribution of unbiased voter guides, candidate questionnaires, or other similar materials are permitted so long as published by the Diocese, Ohio Catholic Conference, or the United States Conference of Catholic Bishops. Please check the Ohio Catholic Conference and USCCB websites for materials that may be distributed.

If you have questions in this area, please feel free to call Kevin Burke or Brian Heskamp. Our extensions are 4360 and 4370 respectfully.

Sincerely,



Kevin Burke
General Counsel

¹ IRS Publication 1828 (Rev. 8-2015).