The Politics of Being Tax-Exempt: Why Involvement in Campaigning Is Prohibited

Tax-exempt entities must adhere to multiple Internal Revenue Code (IRC) requirements to maintain their tax-exempt status. Among them, organizations exempt from income tax under IRC Section 501(c)(3) are explicitly forbidden to engage in political campaign intervention. The following guidance, which takes a look at what activities constitute political involvement, applies only to entities exempt under section 501(c)(3), and does not apply to organizations exempt from tax under other sections of the IRC.

**Political Campaign Intervention Defined**

IRC Section 501(c)(3) grants tax-exemption to entities that qualify as charities, schools, hospitals, and supporting organizations of other 501(c)(3) establishments. These types of organizations are formed to provide for public benefit or to lessen the burden of government, and they are expected to benefit all classes of people without discrimination. They are also required to reinvest profits in the organization or into the community and its residents, rather than profits inuring to investors or other stakeholders.

As part of the 501(c)(3) tax-exempt entity’s mission to benefit all classes of people, it cannot engage in political activity that supports a candidate for public office. Prohibited political activity includes monetary donations to a candidate or an organization formed to campaign for a specific candidate. Also prohibited are statements of position, in which a tax-exempt entity supports a specific candidate or group of candidates. Additionally, it may not make statements *against* a candidate for public office. The organization, any officer, board member, or other person acting under the auspices of the tax-exempt entity cannot engage in any prohibited political activity.

**Indirect Political Activity**

The prohibition does not, however, apply to all activity that could be considered of a political nature. Though intervening for or against specific candidates is expressly forbidden, supporting certain causes or legislation is acceptable. For instance, a child advocacy group may make public statements that it supports proposed legislation requiring minors to wear helmets when bicycling. Similarly, a healthcare organization may acceptably oppose legislation proposing to lower the drinking age. In general, a tax-exempt organization is permitted to support political activity that is in accordance with its exempt purpose, so long as the organization is certain to address only the issue and not any individual candidate for office.
In addition, tax-exempt organizations are permitted to engage in broad-scale activities that encourage all citizens to participate in political activity. For example, a tax-exempt entity may hold voter registration drives encouraging people to register to vote and to vote in an election but cannot suggest that the person should vote for or against any individual candidate. The prohibition also extends to advocating for or against any political party, meaning a tax-exempt organization may not encourage individuals to specifically vote Republican or vote Democrat. Care should be taken that messaging simply encourages citizens to vote generally.

Tax-exempt entities are also allowed to lobby in furtherance of causes that align with their exempt purpose. As an example, an organization that supports wildlife may speak to local legislatures to advocate for budgetary funding for a nature preserve that will sustain wildlife. The IRC does state that lobbying of this nature is permitted so long as the organization is spending an “insubstantial” amount of time and money on the activity.

Gray Areas

Though the law is fairly clear in prohibiting political campaign intervention, there are some gray areas. If a person has not officially declared his or her intention to run for public office, then he or she is not a candidate. Technically, a tax-exempt organization could allow the person to speak at an event held and sponsored by the tax-exempt organization. In addition, the person could make a cash donation to the organization, or the tax-exempt entity could make a cash donation to an organization controlled by the person. None of these activities are expressly prohibited. However, the tax-exempt organization should take great care not to appear to be supporting someone that is generally understood to be running for a public office in the near future.

To spare tax-exempt entities headaches or adverse public opinion, they should establish clear and consistent policies that prohibit any and all types of political activity by officers or board members. Any public office candidate requests directed to the tax-exempt organization should be denied. Employees should be advised that, though they may have personal political opinions and activities, they should not express support for or against any candidate for public office while on official work duty. Signage from candidates running for political office should not be posted or present on the property of the tax-exempt entity.

It may seem that establishing such strong policies is “overkill.” However, the consequence of violating the prohibition on political campaign intervention is loss of tax-exempt status. The entity could also be subject to excise taxes if found to be in violation. Such consequences could be devastating to a tax-exempt entity. Loss of tax-exempt status would mean an entity would be subject to federal income tax, federal unemployment tax, and state and local taxes. So, it is critical that a tax-exempt entity establishes clear and zero-tolerance policies for political campaign intervention.

If you have questions about political campaign activity and how IRC requirements apply to your organization, contact a PYA executive below at (800) 270-9629.

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