

## ***PARISHES AND POLITICAL ACTIVITY***

Pursuant to a group ruling issued annually by the Internal Revenue Service (“IRS”) Catholic churches are exempt from taxation under §501(c)(3) of the Internal Revenue Code. Although this designation relieves parishes from the payment of certain taxes and allows parishes to receive tax-deductible donations, it also imposes certain restrictions on parishes relating to political activity. Simply stated, ignoring these restrictions can seriously jeopardize a parish’s tax-exempt status and the very substantial tax advantages that go with it. Specifically, parishes and other charitable, tax-exempt organizations may not do either of the following:

- Attempt to influence legislation (i.e. “lobbying”) to a degree that such activities would constitute a substantial part of its activities.
- Participate or intervene, whether directly or indirectly, in any political campaign.

### **LOBBYING**

Lobbying may be defined as actions directed at affecting the outcome of legislation. Legislation encompasses, among other things, bills before a state general assembly or the United States Congress, state or federal constitutional amendments, ballot measures, local/municipal legislation, bond measures, and public referenda or initiatives. As stated above, a parish may engage in a limited amount of lobbying without jeopardizing its tax-exempt status. The key for any parish is to ensure that such activity is no more than an insubstantial part of its overall activities. Although there is no clear definition of “insubstantial” relative to lobbying, some cases have indicated that line of demarcation is anywhere between 5% and 15% of a parish’s overall activity. Given this ambiguity it is essential to err on the side of extreme caution.

### **POLITICAL CAMPAIGNS**

Unlike the restrictions on lobbying which allow parishes to engage in some, albeit limited amount, of lobbying, the Internal Revenue Code completely prohibits parishes from participating to any degree in political campaigns on behalf of or in opposition to any candidate for elective public office. In practical terms, this ban is perhaps best understood through the use of specific topics on which the IRS has issued opinions. The following is not an exhaustive list, but touches on the most commonly encountered scenarios.

#### **A. Prohibited Activities**

1. Contributions or in-kind support by parishes made to political campaign funds or candidates.
2. Public statements of position, however communicated, made in support of or in opposition to any candidate for public office, any political party, or any political action committee.
3. Soliciting contributions for or on behalf of a particular candidate.

4. Soliciting signatures for a petition enabling a candidate to appear on the ballot.
5. Loans to or loan guarantees for any candidate, political party, or political action committee.
6. Distribution of campaign literature for or granting permission to candidates or those advocating on behalf of a candidate to distribute campaign literature on parish property, including parish parking lots. Campaign literature would include, among other things, any voter scorecards, endorsements from outside organizations, fliers, or other materials that are biased toward a particular candidate.
7. Rating candidates.
8. Renting space to a candidate or political party if any of the following are true:
  - your parish doesn't routinely rent such space or if it made available only for affiliated Catholic users;
  - your parish charges the candidate or party less than market rate;
  - your parish allows a candidate or party to use the space for free;
  - your parish rents the space to a party or candidate under different terms or conditions than it does for other renters/users;
  - your parish rents space in a manner that demonstrates preference towards or against particular candidates or parties (e.g. your parish is only willing to rent to one candidate or party);
  - your parish promotes, advertises, or provides any services in connection with a candidate or party event on its property.

#### B. Permitted Activities

1. Issue advocacy or addressing the moral aspects of particular issues, so long as such advocacy does not amount to supporting or opposing a given candidate by, for example, identifying particular candidates or candidates' positions on the issue. Also the timing of such issue advocacy, and other factors, could cause such advocacy to be equivalent to campaign activity.
2. Permitting local election authorities to utilize parish facilities for polling places on election days.
3. Sponsoring public events wherein *all* candidates are invited to explain their views and positions so long as the parish conducts the event in a fashion that does not evidence in any way, directly or indirectly, a bias for or against a particular candidate.
4. Sponsoring voter registration drives, so long as it is done in an unbiased fashion and not in a way that would support or oppose any candidate.
5. Educating and attempting to change the position of candidates through direct, *private* communications with a candidate.

6. Educating voters through “voter guides” that elicits from all candidates their positions on a wide variety of relevant issues and in a neutral manner and without comparing the candidates’ positions with those of the parish or the Church.
7. Renting parish facilities to candidates or political parties so long as the parish has a policy and practice of renting that facility to third parties, the charge for the rental is not reduced, all other candidates have the same ability and rent and utilize the facility under the same term and conditions, and the parish does not in any way promote, advertise or provide services in connection with such an event.
8. Inviting a candidate to speak at an event so long as the candidate is going to speak in a non-candidate capacity (e.g. as a public figure), there is no mention by anyone at any time about the speakers candidacy, no campaign activity occurs in connection with the event, and the parish maintains a nonpartisan atmosphere on the premises where the event is being held.

It must be stated, however, that it is easy to run afoul of the prohibition against campaign activity even when it appears on the surface that the activity fits into one of the categories listed above under the heading of permitted activity. This is especially true with regard to voter guides, renting of facilities, and inviting candidates to speak in a “non-candidate” capacity. **As such it is imperative that the Diocesan Legal Office be consulted prior to engaging in any activity that involves anything listed in 1-8 above.**

Bro. Patrick Shea, General Counsel for the Diocese, can be reached at (216) 696-6525 or 1-800-869-6525, ext. 4370. Kevin Burke, Associate General Counsel for the Diocese, can be reached at (216) 696-6525 or 1-800-869-6525ext. 4360.

For additional information regarding this topic we encourage you to read the Political Activity Guidelines for Catholic Organizations authored by the Office of the General Counsel for the United States Conference of Catholic Bishops. Copies of this document can be found on the website of the USCCB by using the following link: <http://www.usccb.org/ogc/guidelines.shtml>. Additionally, copies may be requested from the Diocese Legal Office.

Finally, for further information on Faithful Citizenship, including copies of “*Faithful Citizenship: A Catholic Call to Political Responsibility*” or for copies of the Diocesan Social Action Office non-partisan survey of candidates, contact Tom Allio, Director of the Diocesan Social Action Office, at 888-620-5280.

## **Sample Bulletin Announcement:**

**From the Diocesan Legal Office:** The law of the United States, as provided in the Internal Revenue Code, is that churches and other non-profit organizations cannot take any part in the political campaigns of candidates or do or say anything that could be construed as statements or hints favoring one candidate over another. There are restrictions in what parishes can do and allow in terms of: voter guides and campaign literature, renting facilities to candidates, allowing flyers to be placed on cars in parish parking lots, and allowing political signs to be placed on parish property, among other activities. If there are any questions, please call Brother Patrick Shea or Kevin Burke at the Diocesan Legal Office (216-696-6525, ext. 4370 of 4360).