



ALLIANCE DEFENSE FUND
Defending Our First Liberty

GUIDELINES FOR DISTRIBUTION OF VOTER GUIDES BY CHURCHES

September 2010

During election season churches frequently desire to educate their members on the positions of the candidates running for office. It is permissible under the Internal Revenue Code for churches to distribute non-partisan voter guides. Distribution of such non-partisan voter guides will not endanger a church's 501(c)(3) tax-exempt status. The following are guidelines that will help you determine whether a particular voter guide may be distributed by a church or other 501(c)(3) non-profit organization.

The IRS has stated that voter guides are permissible unless they are biased for or against one or more candidates. The question is whether "the voter's guide itself shows a bias or preference in content or structure with respect to the views of a particular candidate."¹ Important factors in this question include:

- (1) whether the candidates' positions are compared to the organization's position;
- (2) whether the guide includes a broad range of issues that the candidates would address if elected to the office sought;
- (3) whether the description of issues is neutral;
- (4) whether all candidates for an office are included, and
- (5) whether the descriptions of the candidates' positions are either:
 - (a) the candidates' own words in response to questions, or
 - (b) a neutral, unbiased and complete compilation of all candidates' positions.²

First, in a voter guide, the candidates' positions should not be compared to any organization's position. A voter guide may present "key issues" or focus on certain issues but the voter guide should not compare the organization's position to the candidates' positions.

Second, a voter guide should contain issues that are important to the electorate as a whole instead of focusing on a narrow range of issues. Past voter guides ADF has approved contained topics that ranged from the Iraq war to embryonic stem cell research to immigration issues. The IRS has provided some guidance on this issue by pointing to some factual examples:

¹ Rev. Rul. 2007-41 at 1421.

² *Tax Guide for Churches and Religious Organizations*, Pub. 1828 (Rev. 09-2006) at 10, available at <http://www.irs.gov/pub/irs-pdf/p1828.pdf>.

Organization A has been recognized as exempt under section 501(c)(3) of the Code by the Internal Revenue Service. As one of its activities, the organization annually prepares and makes generally available to the public a compilation of voting records of all Members of Congress on major legislative issues involving a wide range of subjects. The publication contains no editorial opinion, and its contents and structure do not imply approval or disapproval of any Members or their voting records. The “voter education” activity of Organization A is not prohibited political activity within the meaning of section 501(c)(3) of the Code.³

Organization D has been recognized as exempt under section 501(c)(3) of the Code. It is primarily concerned with land conservation matters. The organization publishes a voters guide for its members and others concerned with land conservation issues. The guide is intended as a compilation of incumbents’ voting records in selected land conservation issues of importance to the organization and is factual in nature. It contains no express statements in support of or in opposition to any candidate. The guide is widely distributed among the electorate during an election campaign. While the guide may provide the voting public with useful information, its emphasis on one area of concern indicates that its purpose is not non-partisan voter education. By concentrating on a narrow range of issues in the voters guide and widely distributing it among the electorate during an election campaign, Organization D is participating in a political campaign in contravention of the provisions of section 501(c)(3) and is disqualified as exempt under that section.⁴

Therefore, it is important for a voter guide to cover a broad range of issues. Organizations should not feel as if they must exclude issues from the voter guide that are important to the organization, but a voter guide should include a broad range of issues.

Third, the description of the issues must be neutral. One voter guide approved by ADF listed the issues in the center of the flyer and simply listed the candidates’ position on each side of the issue. The important thing to remember is that the issues must be described neutrally.

Fourth, all candidates for office should be included. While it is important to endeavor to list all candidates, it is also important to remember that a two-party system has long dominated American national politics. Thus, it may be appropriate in certain circumstances for a voter guide to focus on the two main candidates for office, especially if it is difficult to ascertain the identity of all candidates besides the two main party candidates.

Finally, the descriptions of the candidates’ positions must be neutral and unbiased as well. Notations of the candidates’ voting records and direct quotations of their own policy positions are appropriate. If the voting record notations and direct quotations are taken from reliable sources, such as the candidates’ websites or campaign materials, then they are fairly and neutrally compiled.

³ Rev. Rul. 78-248 at 1-2.

⁴ Rev. Rul. 78-248 at 2-3.

These factors are important to determine whether a particular voter guide is appropriate for distribution by a church or other 501(c)(3) tax-exempt entity. Because these factors may be applied in many different ways, if you have specific questions about a particular voter guide, please contact ADF at 1-800-TELLADF or www.speakupmovement.org/church. Above all, please remember that churches have an important role to play in every election and the distribution of non-partisan voter guides is one way churches can encourage participation in the political process.

IRS CIRCULAR 230 DISCLOSURE: Any tax advice contained in this communication was not written and is not intended to be used for the purpose of (i) avoiding penalties imposed by the Internal Revenue Code or (ii) promoting, marketing, or recommending any transaction or matter addressed herein.