

Nonprofit Alert - Spring 2007

June 01, 2007

IRS RELEASES NEW GUIDANCE ON POLITICAL ACTIVITIES BY TAX-EXEMPT ORGANIZATIONS

On Friday, June 1, the IRS released Revenue Ruling 2007-41 which describes 21 situations in which an organization exempt from income taxation under Section 501(c)(3) of the Internal Revenue Code has engaged in certain political activities and then evaluates whether each activity constitutes prohibited intervention in a political campaign which would violate the 501(c)(3) status of the organization. The new Revenue Ruling provides helpful, practical guidance on what 501(c)(3) organizations can, and cannot do, in the realm of political activities.

Although the fact situations are very similar – in most cases identical – to the fact situations the IRS published in fact sheet form last year, the new guidance is important because it is binding on both the IRS and affected organizations. This means that tax-exempt 501(c)(3) organizations may rely on the ruling in applying its holdings to their own practices.

The new guidance is also an important development for 501(c)(4) organizations. Although 501(c)(4) organizations are permitted to intervene in campaigns for political office as an incidental part of their overall activities, any amount spent on these activities is subject to an excise tax imposed by Code Section 527. The amount of the excise tax is the lesser of (a) the net investment income of the organization for the year, or (b) the amount the organization spent on the political intervention. The IRS has stated in the past (in a non-binding ruling) that activities constituting prohibited campaign intervention by a 501(c)(3) organization are activities that would be subject to tax if conducted by a 501(c)(4) organization. As a result, this Revenue Ruling also provides helpful guidance to 501(c)(4) organizations on activities that may be permitted but would be subject to the excise tax under Code Section 527.

For questions or additional information, please contact Sarah Duniway or Jennifer Reedstrom Bishop.

Gray Plant Mooty's Sarah Duniway is speaking on Minnesota election law issues for nonprofits at an upcoming training:

WORRY-FREE ADVOCACY: UNDERSTANDING THE RULES OF ELECTION-RELATED ACTIVITY

The Minnesota Council of Nonprofits and Wellstone Action are co-sponsoring Worry-Free Advocacy: Understanding the Rules of Election-Related Activity, a training presented by the Alliance for Justice. Want to know what your nonprofit can do to engage your community around the importance of voting and democratic participation? During this half-day workshop for nonprofit managers, staff and volunteers, the Alliance for Justice attorney-trainers will include the following sessions:

- State Law Rules
- Federal Tax Law Restrictions on Election Related Activity by Exempt Organizations
- Strategies for Coalitions and Affiliated Organizations

Date: Monday, June 11th

Time: 9 a.m. to 12:30 p.m.

Location: Carpenter's Union,
700 Olive St, St Paul

Parking: Free parking available in the lots next to the building

Fee: \$60

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