



Dec. 4, 2013

Daniel I. Werfel, Acting Commissioner
Internal Revenue Service
1111 Constitution Ave., N.W.
Washington, D.C. 20224

Dear Acting Commissioner Werfel,

As I'm sure you know, last week it was announced that the Internal Revenue Service will implement new rules governing the political activities of tax-exempt organizations described in section 501(c)(4) of the Internal Revenue Code. It has been widely reported that the idea behind this move is to curb some of the more blatant politicking by groups designated as "social welfare" entities.

Many Americans are concerned over the abuse of tax-exempt status by organizations with partisan political intent. However, crafting new regulations for (c)(4) organizations alone addresses only part of the problem. Our nation continues to experience blatant violations of the law by organizations described in section 501(c)(3), among them many houses of worship, that willfully break the law by endorsing or opposing candidates for public office.

Unlike (c)(4) organizations, groups holding the (c)(3) designation are wholly prohibited from intervening in elections by endorsing or opposing candidates. Yet many are doing just that. Since 1992, Americans United has reported to the IRS 124 houses of worship and religious ministries that endorsed or opposed candidates. As far as we know, only one church was sanctioned with the loss of tax-exempt status. (This church, the Church at Pierce Creek, later unsuccessfully sued to regain its tax-exempt status. See *Branch Ministries v. Rosotti*, 211 F.3d 137, May 12, 2000). We are aware of several other interventions and agreements reached between the offending churches and the IRS that do not include loss of tax exemption.

In recent years, several conservative organizations have advised houses of worship to openly defy the law in this area. The Alliance Defending Freedom, a legal group based in Scottsdale, Ariz., annually holds an event called "Pulpit Freedom Sunday," during which pastors are prodded

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to ignore the law and endorse or oppose candidates from the pulpit. (The next “Pulpit Freedom Sunday” will be Oct. 5, 2014. See more here: www.speakupmovement.org/church/LearnMore/details/4702.)

I am aware that in 2008, the IRS lost a lawsuit against a Minnesota church that was accused of partisan politicking and financial irregularities. Living Word Christian Center in Brooklyn Park challenged the IRS’s right to audit it, asserting that the audit had not been approved by a high-ranking IRS official, as federal law requires. (*U.S. v. Living Word Christian Center*, Civ. No. 08-mc-37 (ADM/JJK), Nov. 18, 2008.)

In light of this ruling, the IRS announced that new procedures would be put into place governing church audits. Specifically, the agency said it would determine which officials qualified as high ranking enough to approve audits of houses of worship. A rulemaking was conducted in 2009, and Americans United filed comments in November of 2009. At that time we urged swift enforcement of the law, writing, “Given the pervasiveness of church politicking violations, as well as efforts by some organizations in recent years to encourage houses of worship to blatantly violate federal law, having a clear and valid enforcement regime is absolutely essential for the ongoing protection of religious liberty.”

Five years have passed, and no new regulations have been issued. In the interim, organizations such as the Alliance Defending Freedom, the American Center for Law and Justice, Liberty Counsel and others have continued to advise pastors to ignore the law by using church resources to intervene in partisan elections.

My purpose in writing today is to request that the IRS finalize these regulations, publicize them and begin enforcing the law. As you know, our nation is approaching mid-term elections; I believe it would be detrimental for our country and the democratic process to go through another election cycle with the “no-politicking” rule unenforced. The more the IRS delays, the more some pastors conclude that they do not have to abide by this law.

The changes ordered by the court in Minnesota should have been simple to complete, essentially designating the proper individuals within the IRS to approve these audits. Many observers have questioned why the process is taking so long.

I urge you to resolve this matter promptly.

Sincerely,

A handwritten signature in black ink, appearing to read "Barry W. Lynn". The signature is written in a cursive style with a long horizontal flourish at the end.

Barry W. Lynn
Executive Director