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Election Season 2010

Dear Religious Leader,

As Election Day draws near, candidates and their supporters may seek help or endorsements from your house of worship. Thus, this is a good time to familiarize yourself with the law governing electioneering by nonprofit organizations.

The First Amendment protects the right of all Americans, religious leaders included, to speak out on religious, moral and political issues. However, houses of worship and other nonprofit entities classified under Section 501(c)(3) of the Internal Revenue Service Tax Code are barred from endorsing or opposing candidates for public office and may not intervene directly or indirectly in partisan campaigns.

Any activity designed to influence the outcome of a partisan election can be construed as intervention. If the IRS determines that your house of worship has engaged in unlawful intervention, it can revoke the institution's tax-exempt status or levy significant fines on the house of worship or its leaders.

In 1995, the IRS revoked the tax-exempt status of a Binghamton, N.Y., church for buying a full-page ad in USA Today opposing a 1992 presidential candidate. (The federal courts upheld the revocation.) Other churches and religious ministries, including Pat Robertson's Christian Broadcasting Network and Jerry Falwell's Old Time Gospel Hour, have been subject to audits and retroactive tax payments for violating the "no electioneering" rule.

The IRS is stepping up enforcement of the "no politicking" rule. A special "Political Activity Compliance Initiative" has been created, and the tax agency has established an expedited process for dealing with reports of violations. (For more information on pulpit politicking, see the IRS Web site at: <http://www.irs.gov/charities/churches/index.html> and click on "The Restriction of Campaign Political Intervention by Section 501 (c)(3) Tax-Exempt Organizations.")

Houses of worship and other nonprofit groups may sponsor voter registration drives and candidate forums if they are truly nonpartisan, and issue advocacy is broadly protected. But remember, tax law prohibits 501(c)(3) groups from supporting or opposing candidates.

I urge you to be especially wary of so-called "voter guides." Such guides are often thinly veiled partisan materials. If the IRS finds that a violation has occurred, it may be the house of worship, not the organization that produced the guide, that is penalized.

This letter is not intended to be a substitute for legal advice, and I urge you to consult with your legal advisor on specific questions. To learn more about issues surrounding religion and politics, visit our Web site: <http://ProjectFairPlay.org>.

Thank you for taking the time to read this letter.

Sincerely,

The Rev. Barry W. Lynn
Executive Director