

5 Lies about the Church & Politics

Many Christians live in fear of breaking the law if they promote a political candidate. Here are the facts you need to know.

While the dust has mostly settled on the 2008 presidential campaign, the general election itself is now rapidly moving into the spotlight. Churches, and more specifically church leaders, are still playing a major role, as many faith-related issues continue to be debated and challenged, making this election one of the most critical of our era.

So what can a pastor say or not say when so much of our core belief system hangs in the balance? As strongly as a local church may feel about the issues and the candidates that appear on the 2008 ballot, the laws that govern the election season are very specific about what you are allowed to say and not say.

The problem is, most churches are pretty fuzzy when it comes to the IRS and its 501(c)(3) rules and regulations as they relate to elections. *The truth is*, there is a lot you can do legally to help influence the direction of our nation in the upcoming election, without attracting the ire or even the attention of the IRS.

Several watchdog groups will continue to conduct all-out campaigns in an attempt to silence the church. *The problem is*, they come on very strong and can be intimidating. One group in particular, Americans United for Separation of Church and State (AUSCS), launched a successful national campaign in 2004 to monitor churches, in an effort to keep them from distributing voter guides. Many churches simply bowed out of the process because they didn't understand their rights.

The truth is, these groups are powerless to do anything more than report a church or pastor to the IRS should they cross the legal line for what is permissible and what is not. In fact, if you don't cross the line they become nothing more than a paper tiger. (For more, see article on p. 48.)

But legal boundaries exist. I'll define them by exposing some of the most common lies about the role of churches during an election season, replacing the lies with facts.

Lie No. 1: On issues such as abortion, same-sex marriage, gambling and so on, it is unlawful for a church to advocate for or against political issues from the pulpit or in any official church communication.

Truth: It is perfectly lawful for churches to advocate for or against the adoption of a law. The IRS prohibition on partisan politicking does not concern issues but *candidates*—who are individuals seeking public office. A church can say anything it wants about a ballot issue, whether it supports its adoption or defeat, but such teaching and advocacy by the church cannot include expression of support for a particular candidate or political party.

The only limit imposed by the IRS involves the costs associated with any such lobbying. They must be "insubstantial," which means that the costs for any efforts by a church or nonprofit to support or defeat a bill must not exceed 20 percent of the group's budget in any given year.

The U.S. Supreme Court held that "not all burdens on religion are unconstitutional. ... The state may justify a limitation on religious liberty by showing that it is essential to accomplish an overriding governmental interest." The fact that a church is motivated by its religious principles will not cause it to lose its tax-exempt status, but it could result in other penalties if it supports or opposes any candidate.

Lie No. 2: Pastors and church leaders may not as private

citizens endorse, oppose or participate in any political campaign of a candidate or an initiative.

Truth: Pastors can from the pulpit give their biblical view of issues, state candidates' positions and urge their hearers to vote. Pastors cross the line, however, when they do all this and then say, "Our church supports Candidate A."

As recently as 2000, a federal appellate court rejected a church's claim that the First Amendment's free exercise of religion clause allowed the church to urge the public to vote against a candidate (*Branch Ministries and Dan Little, Pastor, v. Rossotti*; also *Bob Jones University v. United States*).

As private citizens, however, pastors and other church leaders and congregants can support, endorse or oppose candidates or use their personal time to work on behalf of candidates. However, they must make it clear that they are speaking on their own behalf and not on behalf of the church, and they cannot use any church resources such as letterhead, newsletters or facilities to do so.

In its recently updated *Tax Guide for Churches and Religious Organizations* (Publication 1828), the IRS provides the following example of a prohibited activity:

"Minister B is the minister of Church K. Church K publishes a monthly church newsletter that is distributed to all church members. In each issue, Minister B has a column titled 'My Views.'

"The month before the election, Minister B states in the 'My Views' column, 'It is my personal opinion that Candidate U should be re-elected.' For that one issue, Minister B pays from his personal funds the portion of the cost of the newsletter attributable to the column.

"Even though the pastor paid part of the cost of producing the newsletter, it is an official publication of the church.

Because the endorsement appeared in an official publication of Church K, it constitutes campaign intervention.”

Lie No. 3: Churches may not send questionnaires to candidates and ask them where they stand on issues. Furthermore, churches may not distribute the answers to the congregation as this may unduly influence a voter.

Truth: Churches may send questionnaires to candidates and ask them where they stand on issues. However, before distributing the answers, churches should make sure the responses are accurate. Also, questionnaires should be sent to all candidates, and the church must be careful not to make inferences or attach meaning to the results. It is wise to simply let the raw facts speak for themselves.

Lie No. 4: Churches are not allowed to contribute financially to any political issue or initiative.

Truth: As previously stated, churches cannot contribute money to candidates, solicit contributions on candidates’ behalf or donate to a candidate’s political action committee (PAC). Churches may not set up their own PACs.

Churches may, however, contribute to ballot initiatives and issues that are of relevance to their beliefs on social issues and other relevant initiatives. But remember, the costs for any efforts by a church or nonprofit organization to support or defeat a bill *must not exceed 20 percent of the group’s budget in any given year.*

Lie No. 5: Churches may not sponsor or participate in voter registration drives or exert influence over the congregation for the purpose of boosting voter turnout if that turnout is biased heavily toward one political party.

Truth: Churches can sponsor voter registration drives, encourage voting and even help people get to the polls on Election Day. But a church cannot endorse or oppose a

candidate or tell people whom to vote for.

Half-Truth: Churches may not distribute voter guides from outside groups such as the Christian Coalition.

Full Truth: The jury is still out on this one. During the last election cycle, thousands of churches chose not to distribute the voter guides sent out by the Christian Coalition for a variety of reasons, mostly because of the aforementioned campaign of AUSCS. For churches that want to distribute them, there are three primary points to keep in mind.

First, the voter guide must not make statements that contain any level of untruth. For example, to have said in the 2000 election that Al Gore was 100 percent pro-abortion would have been erroneous. He was in favor of abortion in all cases except for a few exceptions in late-term abortions. That little slip on a fact makes the guide technically inaccurate and legally actionable.

Second, the church must realize that regardless of whose name is on the voter guide, if it is distributed by the church and it contains an inaccuracy such as the one mentioned above, the church will be held responsible.

Third, houses of worship should be extremely careful with voter guides produced by outside groups. Many of these groups are allowed by law to engage in some political activities in which churches are not permitted to take part. Also, when an outside organization produces a guide, church leaders may have no way of knowing if the answers are technically accurate.

Voter guides are more likely to be considered nonpartisan if they cover all candidates, address a wide variety of issues, do not compare candidate positions with positions of the church and otherwise do not indicate bias.

Official IRS stance: In its *Tax Guide for Churches and Religious Organizations*, the IRS provides examples of

prohibited activities for churches. Among the political campaign activities that section 501(c)(3) states a church cannot engage in, directly or indirectly, are:

- Endorsing, supporting or opposing any political candidate
- Permitting a church trustee, pastor, employee or representative acting on behalf of the church to use his or her position, or the reputation or resources of the church, to endorse, support or oppose a candidate or make any statements to encourage its members to vote for or against a particular candidate or part.
- Contributing to or fundraising for the campaign of a candidate, party or PAC
- Permitting the church's facilities, name, reputation or resources to be used by a candidate, party, PAC, church member or others to support or oppose a candidate
- Distributing partisan voter guides or other candidate information that favors or disfavors a particular candidate or party; and any other activity that intervenes or otherwise supports or opposes a candidate
- In summary, here are some dos and don'ts for pastors:

1. Tell your people to vote. Tell them as often and as strongly as you feel led, but do not tell them in any church-related forum or publication whom to vote for or whom you will vote for.

2. Candidates will want to visit your church to get their names out there. You can allow these folks to come, and even tell your congregation they will be available after the service to meet and greet. But if you allow one party representation, then you have to permit the others.

3. You may take a stand on any issue that you wish and even endorse one side of an issue or the other. But do not say anything about the opposing view that could be construed as untrue.

4. Voter guides are incredibly powerful documents that do a great job exposing the differences between candidates, propositions and other choices on the ballot. Avoid any that you know or suspect are laced with rancor and generalizations that could be construed as untrue. Let's hope the groups that produce these will just stick to the facts this election season. Remember, it doesn't matter whose name is on the voter guide; if you distribute it, you will be responsible, legally and otherwise, if anything stated is untrue.

5. What you do with your vote is up to you as a private citizen. But you cannot make your personal position known through the use of church funds, letterhead or anything else that would indicate your church endorses your position.

In this next election season, let's commit as private citizens to praying, getting out the vote and speaking out as strongly as we feel led to on the social issues. Even though churches cannot do the same, let's do our part and allow God to be God.

We will have done what we can do under proper authority, and the rest will be up to Him. Lead wisely, speak boldly, pray fervently and have faith, remembering that in the end God is in control of the results.

Rich Rogers is the campus pastor of the Southern California campus of Jentezen Franklin's Free Chapel Worship Center. His first book, *Next Level Living*, tells how to discover personal purpose in God. His second book, *Next Level Parenting*, is due out in March (both from Charisma House).

Don't Be Intimidated

Attorney Mathew Staver says churches needn't fear that the government can take away their tax-exempt status.

Churches are bestowed with a responsibility to speak out about moral issues but sometimes don't for fear of losing their tax-exempt status. Those fears are unfounded, says attorney Mathew Staver, founder and chairman of Liberty Counsel.

"My advice is for pastors to confront the culture and not be worried about the consequences," says Staver, who addresses the issue during a legal seminar available on CD and DVD, titled What Pastors Can and Cannot Do Politically.

No church in U.S. history has ever lost its tax-exempt status for lobbying or endorsing a political candidate, he says, and even if a church broke the law it would be difficult for the IRS to render real punishment. That's because churches are tax-exempt by their very existence.

Some opt to obtain an IRS tax-exempt "letter," Staver says, but he adds that no such paperwork is needed for a church to have or maintain tax-exempt status.

"It is misunderstanding and misbelief that oftentimes shackle pastors unnecessarily," says Staver, whose Florida- and Virginia-based organization specializes in religious liberty and litigation.

A letter from the IRS can be a convenience for churches that apply for grants, have an audit or need proof of tax-exemption when making purchases. The IRS can revoke the letter, but because churches are not required to have it they are not in danger of losing their tax-exempt status should the IRS take action against them for crossing forbidden political

boundaries, Staver explains in his seminar.

The IRS restricts churches from engaging in the political arena to support or oppose a “candidate”—someone running for public office. Pastors can privately endorse or oppose a candidate, but not on behalf of their churches. Churches are free, however, to endorse or oppose elected officials and government appointees because by law they are not “candidates.”

Before he became a lawyer, Staver was a pastor in Kentucky. A video on abortion moved him to pursue law. “I want to liberate pastors,” he says.

—Amy Green