

Guidance to Inns on Engaging in Political Activities

Is it Political? A review of the IRS rules that apply to all Inns

A new member, Judge Judy Dredd, contacts you in your role as Inn president and expresses her interest in supporting the Inn, and specifically the Inn's sponsorship program. The Judge pledges \$500 to be included with your Inn's silver level sponsors and promises a check will arrive shortly. The following week, your Inn's treasurer reports to the executive committee that the check did indeed arrive, written from the "Campaign to Re-Elect Judge Judy Dredd" account. After the check is deposited, the Judge emails the Inn's technology chair with a short blurb: "Just following up as my sponsorship contribution cleared my bank. Enclosed in this email is a JPEG of my sponsor logo for the Inn's website." The image file includes the Judge's signature and a tagline reading: "Paid for by Campaign to Re-Elect Judge Judy Dredd".

You are elated- not only do you have a new member, but it's a judge who really wants to support the Inn and the mission. It never occurs to you, the executive committee, or likely even the judge that accepting this arrangement is against the IRS rules.

As we seem to be in perpetual election years, it is always a good time to review IRS rules that all 501(c)(3) organizations must follow. Not only does engaging in political activity like this put the Inn's tax-exempt status at risk, it may also put the national organization's status at risk. We need your help as leaders in protecting both organizations.

First, here's the exact language from the IRS that defines what a 501(c)(3) organization is bound to follow by law. What follows is verbatim from the IRS.

"Under the Internal Revenue Code, all section 501(c)(3) organizations are absolutely prohibited from directly or indirectly participating in, or intervening in, any political campaign on behalf of (or in opposition to) any candidate for elective public office. Contributions to political campaign funds or public statements of position (verbal or written) made on behalf of the organization in favor of or in opposition to any candidate for public office clearly violate the prohibition against political campaign activity. Violating this prohibition may result in denial or revocation of tax-exempt status and the imposition of certain excise taxes.

"Certain activities or expenditures may not be prohibited depending on the facts and circumstances. For example, certain voter education activities (including presenting public forums and publishing voter education guides) conducted in a non-partisan manner do not constitute prohibited political campaign activity. In addition, other activities intended to encourage people

to participate in the electoral process, such as voter registration and get-out-the-vote drives, would not be prohibited political campaign activity if conducted in a non-partisan manner.

"On the other hand, voter education or registration activities with evidence of bias that (a) would favor one candidate over another; (b) oppose a candidate in some manner; or (c) have the effect of favoring a candidate or group of candidates, will constitute prohibited participation or intervention."

As you can see, there is no ambiguity. Because the Inn is prohibited from engaging in political activity, and because featuring the logo of one candidate (and not all candidates) could be interpreted as evidence of bias, the Inn should not engage in this activity. It's clear that the source of the sponsorship came from the candidate's campaign funds for the purposes of advancing the candidate's election, and therefore is considered political activity. The Inn leadership should return the donation and should not post the candidate's logo on its website.

What if other members, who are not candidates for election, want to support the Inn? Should individuals wish to contribute to the Inn, the recognition would be in the form of a receipt or letter acknowledging the contribution. An Inn may also certainly recognize a donor on the Inn's website. But a list that includes the "Hon. Judy Dredd Campaign for District Court" would run afoul of the IRS rules. Candidates for office are not prohibited from donating to whatever cause they deem worthy, but only as individuals. No 501(c)(3) organization can accept funds from political campaigns in return for public recognition.

What about non-monetary forms of political activity, such as a campaign speech or distributing campaign materials at Inn meetings? The organization must provide an equal opportunity to all candidates. The Inn cannot invite or allow one candidate to speak, pass out campaign material, or buy advertising, engagement in sponsorship, etc. without all candidates having an equal opportunity.

If you have any questions about this, please contact your Director of Chapter Relations. We are dedicated to support your work to protect our shared ability to deliver on our vision: A legal profession and judiciary dedicated to professionalism, civility and excellence.