

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

AMERICAN CENTER FOR LAW AND
JUSTICE,

Plaintiff,

VS.

INTERNAL REVENUE SERVICE,
1111 Constitution Ave., NW
Washington, DC 20224

Defendant.

Case Action No. 21-cv-2269

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

COMPLAINT

Plaintiff American Center for Law and Justice (“AC LJ”), by and through counsel, brings this action under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, challenging the failure of the Defendant Internal Revenue Service (“IRS”) to issue a determination as to Plaintiff’s FOIA requests within the statutorily prescribed time period and seeking the disclosure and release of agency records improperly withheld by Defendant. In support thereof, Plaintiff alleges and states as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B), 5 U.S.C. § 552(a)(6)(C)(i), and 28 U.S.C. § 1331, because this action arises under FOIA, and Plaintiff has exhausted its administrative remedies.

2. Venue is proper in this district pursuant to 28 U.S.C. § 1391(e) and 5 U.S.C. § 552(a)(4)(B).

3. This Court has authority to award injunctive relief pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 2202.

4. This Court has authority to award declaratory relief pursuant to 28 U.S.C. § 2201.

PARTIES

5. Plaintiff, with an office at [REDACTED] is a not-for-profit 501(c)(3) organization dedicated to the defense of constitutional liberties secured by law. Plaintiff's mission is to educate, promulgate, conciliate, and where necessary, litigate, to ensure that those rights are protected under the law. Plaintiff also regularly monitors governmental activity with respect to governmental accountability. Plaintiff seeks to promote integrity, transparency, and accountability in government and fidelity to the rule of law. In furtherance of its dedication to the rule of law and public interest mission, Plaintiff regularly requests access to the public records of federal, state, and local government agencies, entities, and offices, and disseminates its findings to the public.

6. Defendant IRS is an agency of the United States within the meaning of 5 U.S.C. § 552(f)(1) and is headquartered at 1111 Constitution Ave., N.W., Washington, D.C. 20224. Defendant is in control and possession of the records sought by Plaintiff.

FACTUAL ALLEGATIONS

7. On July 23, 2021, Plaintiff issued a FOIA request to Defendant IRS. Pl.'s FOIA Request to DOS, Ex. A, at 1, incorporated by reference as if fully set forth herein.

8. To summarize, Plaintiff requested: "records pertaining to the U.S. Internal Revenue Service's review of applications for federal tax exemption under the Internal Revenue Code (IRC), including but not limited to any 'Be on the Lookout for' list." Pl.'s FOIA Request Ex. A, 1.

9. “Pursuant to Treasury Department FOIA regulation 26 CFR § 601.702,” Plaintiff set forth “the subject, timeframe, names of any individuals involved, and reasons why the requester believes the Department may have records on the subject of the request.” Pl.’s FOIA Request Ex. A, 1-2 (quoting 26 CFR § 601.702).

10. A fax confirmation sheet, attached as Exhibit B, confirms delivery was completed on July 23, 2021.

11. No correspondence has been received from Defendant IRS.

CAUSE OF ACTION

COUNT I

Violation of the Freedom of Information Act

12. Plaintiff realleges and incorporates by reference the preceding paragraphs of this Complaint as if fully stated herein.

13. The federal FOIA establishes a 20-day deadline by which a federal agency must make and issue a decision regarding compliance with a request for records made pursuant to the statute. 5 U.S.C. § 552(a)(6)(A)(i).

14. Pursuant to 5 U.S.C. § 552(a)(6)(A), the Defendant was required to determine whether to comply with Plaintiff’s request within twenty (20) days, excepting Saturdays, Sundays, and legal public holidays. Pursuant to this same provision, the Defendant was also required to notify Plaintiff immediately of the determination, the reasons therefor, and the right to appeal any adverse determination to the head of the agency.

15. Defendant IRS’s 20-day period commenced July 24 2021, and expired no later than August 24, 2021.

16. As of the date of this Complaint, the Defendant has failed to notify Plaintiff of any determination about whether it will comply with Plaintiff’s FOIA request, including the scope of

records the Defendant intends to produce, or the scope of records it intends to withhold, and the reasons for any such determination.

17. As of the date of this Complaint, the Defendant has failed to produce any records responsive to the request and have not indicated when (or even whether) any responsive records will be produced, or demonstrate that responsive records are exempt from production.

18. The Defendant has not requested information from the Plaintiff that would toll the 20-day period as contemplated by 5 U.S.C. § 552(a)(6)(A)(i)(I).

19. The FOIA permits a federal agency, in unusual circumstances, to extend the 20-day response deadline for a period not to exceed ten (10) additional working days, 5 U.S.C. § 552(a)(6)(B)(i), if it identifies “the date on which a determination is expected to be dispatched,” as clearly required by 5 U.S.C. § 552(a)(6)(B)(i), and which shall not be “a date that would result in an extension for more than ten working days.” *Id.*

20. There are no “unusual circumstances” that justify Defendant’s prolonged delay in responding as required by law to Plaintiff’s lawful FOIA requests.

21. Plaintiff has a statutory right to have Defendant process Plaintiff’s FOIA request in a timely manner and in accordance with the requirements set forth in 5 U.S.C. § 552(a)(6).

22. The Defendant IRS is unlawfully withholding records requested by the Plaintiff American Center for Law and Justice pursuant to the FOIA, 5 U.S.C. § 552.

23. FOIA provides a cause of action for a complainant from whom a federal agency has withheld requested records. 5 U.S.C. § 552(a)(4)(B).

24. Through continued delay and outright failure to properly respond to Plaintiff’s lawful request for records, and its improper withholding of such requested records, the Defendant

has failed to comply with FOIA's prescribed deadlines for responding to a request for records and has violated Plaintiff's statutory rights.

25. Pursuant to 5 U.S.C. § 552(a)(6)(C), because the Defendant failed to comply with the time limit set forth in 5 U.S.C. § 552(a)(6)(A), Plaintiff is deemed to have exhausted any and all administrative remedies with respect to its FOIA request.

26. Plaintiff is being irreparably harmed by reason of the Defendant's unlawful withholding of requested records, and Plaintiff will continue to be irreparably harmed unless the Defendant is compelled to conform its conduct to the requirements of the law.

27. The FOIA imposes no limits on courts' equitable powers in enforcing its terms, and this Court should exercise its equitable powers to compel the Defendant to comply with the clear requirements of the FOIA.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that the Court enter judgment against the Defendant IRS, and provide Plaintiff with the following relief:

- (a) An Order that the Defendant conduct a diligent, expedited search for any and all records responsive to Plaintiff's FOIA request and demonstrate that it employed reasonable search methods most technologically likely to lead to the discovery of records responsive to Plaintiff's FOIA request, selected from among those methods available to Defendant;
- (b) An Order that the Defendant produce, by a date certain, any and all non-exempt records responsive to Plaintiff's FOIA request and a *Vaughn* index of any responsive records withheld under claim of exemption;
- (c) An Order enjoining the Defendant from continuing to withhold any and all non-exempt records responsive to Plaintiff's FOIA request;
- (d) A declaration that the Defendant's actions violated Plaintiff's statutory rights under 5 U.S.C. § 552;
- (e) An Order awarding to Plaintiff its reasonable attorneys' fees and other litigation costs reasonably incurred in this action pursuant to 5 U.S.C. § 552(a)(4)(E); and,

(f) An Order granting to Plaintiff all further relief to which Plaintiff may be entitled.

Dated: August 26, 2021.

Respectfully submitted,

THE AMERICAN CENTER FOR LAW AND JUSTICE

JAY ALAN SEKULOW

COUNSEL OF RECORD

JORDAN SEKULOW

STUART J. ROTH

JOHN MONAGHAN

Counsel for Plaintiff

/s/ Benjamin P. Sisney

BENJAMIN P. SISNEY

Counsel for Plaintiff



July 23, 2021

Internal Revenue Service
Central Processing Unit
Stop 211
PO Box 621506
Atlanta, GA 30362-3006
Fax: 877-807-9215

VIA FAX ONLY

RE: FOIA Request to the Internal Revenue Service regarding review of applications for federal tax exemption under the Internal Revenue Code (IRC), including but not limited to any "Be on the Lookout for" list.

To Whom It May Concern:

This letter is a request ("Request") in accordance with the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, and the corresponding department/agency implementing regulations.

The Request is made by the American Center for Law and Justice ("ACLJ")¹ on behalf of over 80,000 of its members.

To summarize, this Request seeks records pertaining to the U.S. Internal Revenue Service's review of applications for federal tax exemption under the Internal Revenue Code (IRC), including but not limited to any "Be on the Lookout for" list.

Background

Pursuant to Treasury Department FOIA regulation 26 CFR § 601.702, this Background addresses the subject, timeframe, names of any individuals involved, and reasons why the requester believes the Department may have records on the subject of the request. 26 CFR § 601.702.

¹ The ACLJ is a not-for-profit 501(c)(3) organization dedicated to the defense of constitutional liberties secured by law. The ACLJ regularly monitors governmental activity and works to inform the public of such affairs. The ACLJ and its global affiliated organizations are committed to ensuring governmental accountability and the ongoing viability of freedom and liberty in the United States and around the world.



On May 18, 2021, the IRS denied an application by Christians Engaged for tax-exempt status.²

The letter was summarized:

“You are engaged in prohibited political campaign invention” and “You are also not operated exclusively for one or more exempt purposes...because you operate for a substantial non-exempt private purpose and for the private interest of the ‘D party.’” The “D party” is a reference to the Republican Party, according to a “legend” provided at the top of Martin’s letter to the religious group.³

The Christians Engaged denial is not a solitary occurrence. For example, OpenSecrets reports:

Democratic Sen. Sheldon Whitehouse is calling on the IRS to review the tax-exempt status of pro-Trump group Turning Point USA, alleging the group broke Covid regulations when it reportedly hosted two large ‘superspreader’ events in Florida.⁴

In view of the Tea Party IRS targeting scandal of 2013,⁵ and the subsequent litigation in which the United States Court of Appeals for the D.C. Circuit stated this:

A violation of right that is “suspended until further notice” has not become the subject of voluntary cessation, with no reasonable expectation of resumption, so as to moot litigation against the violation of rights. Rather, it has at most advised the victim of the violation – “you’re alright for now, but there may be another shoe falling.”⁶

If the IRS is again “targeting” or on the lookout for certain groups based on viewpoint, beliefs, speech or expression, is unquestionably a matter of public interest.

Records Requested

For purposes of this Request, the term “record” means “any information” that qualifies under 5 U.S.C. § 552(f), and includes, but is not limited to, the original or any full, complete and unedited copy of any log, chart, list, memorandum, note, correspondence, writing of any kind, policy, procedure, guideline, agenda, handout, report, transcript, set of minutes or notes, video, photo, audio recordings, or other material. The term “record” also includes, but is not limited to, all relevant information created, stored, received or delivered in any electronic or digital format, e.g., electronic mail, instant messaging or Facebook Messenger, iMessage, text messages or any other

² Carly Mayberry, *First Liberty Appeals Denial of Tax Exemption for Group Alleged to have Republican Ties*, NEWSWEEK (June 18, 2021, 5:41 AM), <https://www.newsweek.com/first-liberty-appeals-denial-tax-exemption-group-alleged-have-republican-ties-1602075>.

³ *Id.*; IRS Letter, <https://firstliberty.org/wp-content/uploads/2021/06/Christians-Engaged-IRS-Determination-Letter-Redacted.pdf>, attached as Exhibit A.

⁴ @OpenSecrets.org, TWITTER (Jan. 21, 2021, 3:09 PM), <https://twitter.com/OpenSecretsDC/status/1352347484165648385>.

⁵ Mark Tapscott, *Lois Lerner Is BAAACCKKKK!!! New IRS Targeting Scandal Erupts in Texas*, PJ MEDIA (June 16, 2021, 6:33 PM), <https://pjmedia.com/culture/marktapscott/2021/06/16/lois-lerner-is-baaacckkkk-new-irs-targeting-scandal-erupts-in-texas-n1455122>.

⁶ *True the Vote, Inc. v. IRS*, 831 F.3d 551, 563 (D.C. Cir. 2016).

means of communication, and any information generated, sent, received, reviewed, stored or located on a government or *private* account or server, consistent with the holdings of *Competitive Enter. Inst. v. Office of Sci. & Tech. Policy*, 827 F.3d 145 (D.C. Cir. 2016) (rejecting agency argument that emails on private email account were not under agency control, and holding, “If a department head can deprive the citizens of their right to know what his department is up to by the simple expedient of maintaining his departmental emails on an account in another domain, that purpose is hardly served.”).

For purposes of this Request, the term “briefing” includes, but is not limited to, any in-person meeting, teleconference, electronic communication, or other means of gathering or communicating by which information was conveyed to one or more person.

For purposes of this Request, the term “IRS official” includes, but is not limited to, any person who is (1) employed by or on behalf of the IRS, any Mission of the United States, or any Delegation of the United States, in any capacity; (2) contracted for services by or on behalf of the IRS, any Mission of the United States, or any Delegation of the United States, in any capacity; (3) appointed by the President of the United States to serve in any capacity at or within the IRS; or (4) any such person’s staff, agent or employee; all without regard to the component, bureau, or office in which that person serves.

For purposes of this Request, all sources, documents, letters, reports, briefings, articles and press releases cited in this Request are incorporated by reference as if fully set forth herein.

For purposes of this Request, and unless otherwise indicated, the timeframe of records requested herein is December 20, 2020, to the date this request is processed.

Pursuant to FOIA, 5 U.S.C. § 552 *et seq.*, ACLJ hereby requests that the Internal Revenue Service (IRS) produce the following:

1. **All records, communications or briefings created, generated, forwarded, transmitted, sent, shared, saved, received, or reviewed by Commissioner Charles P. Rettig, Stephen A. Martin and Roger Vance, including by utilizing any alias, referencing, connected to, or regarding in any way a “Be on the Lookout For” (BOLO) list, including but not limited to any synonyms and their acronyms such as, “beware of”, “look out for”, “be vigilant for,” “oversee,” “be alert for,” “be on alert,” “attend,” “watch out for” and “protect the rule of law,”** including but not limited to any record located on backup tapes, archives, any other recovery, backup, storage or retrieval system, IRS electronic mail or message accounts, non-IRS electronic mail or message accounts, personal electronic mail or message accounts, IRS servers, non-IRS servers, and personal servers, as well as any electronic mail or message carbon copied to agency account recipients, any electronic mail or message carbon copied to non-agency account recipients, any electronic mail or message forwarded to agency account recipients, any electronic mail or message forwarded to non-agency account recipients, and attachments to any electronic mail or message.

2. **All records, communications or briefings created, generated, forwarded, transmitted, sent, shared, saved, received, or reviewed by any IRS official or employee of the Exempt Organizations, Rulings and Agreements division of the IRS, referencing, connected to, or regarding in any way a “Be on the Lookout For” (BOLO) list, including but not limited to any synonyms and their acronyms such as, “beware of”, “look out for”, “be vigilant for,” “oversee,” “be alert for,” “be on alert,” “attend,” “watch out for” and “protect the rule of law,” including but not limited to any record located on backup tapes, archives, any other recovery, backup, storage or retrieval system, IRS electronic mail or message accounts, non-IRS electronic mail or message accounts, personal electronic mail or message accounts, IRS servers, non-IRS servers, and personal servers, as well as any electronic mail or message carbon copied to agency account recipients, any electronic mail or message carbon copied to non-agency account recipients, any electronic mail or message forwarded to agency account recipients, any electronic mail or message forwarded to non-agency account recipients, and attachments to any electronic mail or message.**

3. **All records, communications or briefings created, generated, forwarded, transmitted, sent, shared, saved, received, or reviewed by any IRS official or employee of the Exempt Organizations, Rulings and Agreements division of the IRS, referencing, connected to, or regarding in any way the “Legend” or “Key” at the top of the IRS letter identified in the Background Section above and attached as Exhibit A, or any other “Legend” or “Key” listing the terms Christian, Republican, Democrat, Conservative, Tea Party, intercessor, prayer, Word of God, and Liberal, including but not limited to any record located on backup tapes, archives, any other recovery, backup, storage or retrieval system, IRS electronic mail or message accounts, non-IRS electronic mail or message accounts, personal electronic mail or message accounts, IRS servers, non-IRS servers, and personal servers, as well as any electronic mail or message carbon copied to agency account recipients, any electronic mail or message carbon copied to non-agency account recipients, any electronic mail or message forwarded to agency account recipients, any electronic mail or message forwarded to non-agency account recipients, and attachments to any electronic mail or message.**

4. **All records, communications or briefings created, generated, forwarded, transmitted, sent, shared, saved, received, or reviewed by any IRS official or employee of the Exempt Organizations, Rulings and Agreements division of the IRS, referencing, connected to, or regarding in any way a the words “Bible” and “Biblical”, including but not limited to any record located on backup tapes, archives, any other recovery, backup, storage or retrieval system, IRS electronic mail or message accounts, non-IRS electronic mail or message accounts, personal electronic mail or message accounts, IRS servers, non-IRS servers, and personal servers, as well as any electronic mail or message carbon copied to agency account recipients, any electronic mail or message carbon copied to non-agency account recipients, any electronic mail or message forwarded to agency account recipients, any electronic mail or message forwarded to non-agency account recipients, and attachments to any electronic mail or message.**

5. **All records, communications or briefings created, generated, forwarded, transmitted, sent, shared, saved, received, or reviewed by the IRS official or employee of the Exempt Organizations, Rulings and Agreements division of the IRS, referencing, connected to, or regarding in any way the development and origination of the legend at the top of the**

“Christians Engaged” letter attached as Exhibit A, including but not limited to any record located on backup tapes, archives, any other recovery, backup, storage or retrieval system, IRS electronic mail or message accounts, non-IRS electronic mail or message accounts, personal electronic mail or message accounts, IRS servers, non-IRS servers, and personal servers, as well as any electronic mail or message carbon copied to agency account recipients, any electronic mail or message carbon copied to non-agency account recipients, any electronic mail or message forwarded to agency account recipients, any electronic mail or message forwarded to non-agency account recipients, and attachments to any electronic mail or message.

6. **All records, communications or briefings created, generated, forwarded, transmitted, sent, shared, saved, received, or reviewed by the IRS official or employee of the Exempt Organizations, Rulings and Agreements division of the IRS, referencing, connected to, or regarding in any way the development and origination of the letter template used in the creation of the “Christians Engaged” letter attached as Exhibit A**, including but not limited to any record located on backup tapes, archives, any other recovery, backup, storage or retrieval system, IRS electronic mail or message accounts, non-IRS electronic mail or message accounts, personal electronic mail or message accounts, IRS servers, non-IRS servers, and personal servers, as well as any electronic mail or message carbon copied to agency account recipients, any electronic mail or message carbon copied to non-agency account recipients, any electronic mail or message forwarded to agency account recipients, any electronic mail or message forwarded to non-agency account recipients, and attachments to any electronic mail or message.

7. **The record named or previously labeled the “Internal Revenue Manual”, both the current edition and the prior edition**, including but not limited to any record located on backup tapes, archives, any other recovery, backup, storage or retrieval system, IRS electronic mail or message accounts, non-IRS electronic mail or message accounts, personal electronic mail or message accounts, IRS servers, non-IRS servers, and personal servers, as well as any electronic mail or message carbon copied to agency account recipients, any electronic mail or message carbon copied to non-agency account recipients, any electronic mail or message forwarded to agency account recipients, any electronic mail or message forwarded to non-agency account recipients, and attachments to any electronic mail or message.

CONCLUSION

If this Request is denied in whole or in part, the ACLJ requests that, within the time requirements imposed by FOIA, you support all denials by reference to specific FOIA exemptions and provide any judicially required explanatory information, including but not limited to, a *Vaughn* Index.

Thank you for your prompt consideration of this Request. Please furnish all applicable records and direct any responses to:

Jordan Sekulow, Executive Director
Benjamin P. Sisney, Senior Litigation Counsel
John A. Monaghan, Senior Litigation Counsel

[REDACTED]
[REDACTED]
[REDACTED]

American Center for Law and Justice

Washington, D.C.

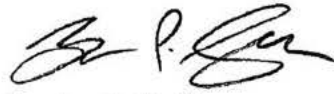
(202) (fax)

I affirm that the foregoing request and attached documentation are true and correct to the best of my knowledge and belief.

Respectfully submitted,



Jordan Sekulow
Executive Director



Benjamin P. Sisney
Senior Litigation Counsel



John A Monaghan
Senior Litigation Counsel

Attachment



Department of the Treasury
Internal Revenue Service
P.O. Box 2508
Cincinnati, OH 45201

CHRISTIANS ENGAGED
[REDACTED]

Date: 05/18/2021

Employer ID number:
[REDACTED]

Contact person/ID number:

Roger Vance/0203391

Contact telephone number:

513-975-6666

Contact fax number:

855-789-2984

Legend:

B= July 22, 2019

C= Texas

D= Republican

F= The Texas Eagle Forum

G= Promise Keepers

H= Collin County

J= Collin County Republican

K = Collin County Victory Efforts

M = Word of God

UIL:

501.03-00

Dear Applicant:

We considered your application for recognition of exemption from federal income tax under Internal Revenue Code (IRC) Section 501(a). We determined that you don't qualify for exemption under IRC Section 501(c)(3). This letter explains the reasons for our conclusion. Please keep it for your records.

Issues

Do you qualify for exemption under IRC Section 501(c)(3)? No, for the reasons stated below.

Facts

You were incorporated on B in the state of C. You are formed exclusively for charitable, religious, educational, or scientific purposes, including, for such purposes, the making of distributions to organizations that qualify as exempt organizations under Section 501(c)(3), or the corresponding section of any future federal tax code.

Your founder and President is a motivational public speaker, former D Congressional Candidate, political consultant and Preacher of the Gospel. Your Vice President is a motivational public speaker, former President of F, intercessor, former Prayer Coordinator for G and a homeschool mom. Your Secretary you describe as a conservative millennial thought leader with a marketing and political consulting background. He now serves as the Executive Director for the K, where he manages the J Party's field teams in H as well as the grassroots get-out-the-vote efforts for H.

Your mission statement indicates that you exist to awaken, motivate, and empower ordinary believers in Jesus Christ to:

- Pray for the nation regularly
- Vote in every election to impact the culture
- Engage hearts in some form of political education or activism for the future of the nation
- Strive to educate Christians on the importance of prayer, voting and engagement in a non-partisan manner.

You explained that you hold weekly prayer meetings to pray for leaders of your state and nation. Churches are given program outlines for the prayer meetings. Statewide and area prayer gatherings are also conducted. You partner with other organizations to have strategic prayer gatherings for the state, nation, and elected officials.

In addition, you educate individuals through your website, social media, video, and live in person teachings in churches. Your goal is to provide a place of connection and educational tools for Christians to engage in political activism. Your website includes educational materials and blogs. Everywhere you go, you will have voter registrars and you will be registering people to vote on the spot.

You also educate believers on national issues that are central to their belief in the Bible as the inerrant M. You educate Christians in areas where they can be instrumental as in areas of the sanctity of life, the definition of marriage, biblical justice, laws vs. lawlessness, freedom of speech, religious liberty, government and business ethics, human trafficking, fiscal responsibility in government budgeting, defense, borders and immigration, U.S. and Israel relations.

To further your mission, you conduct educational activities including a month-long political activism course. The thrust of the course is to create onramps of practical education and mentorships for people to engage in political activism with a basis in a biblical/Christian value system. Topics include instructing individuals on becoming a citizen lobbyist, working with elected officials and candidates, discerning between the lesser of two evils, keeping the Christian soul right when working on politics, practical steps and pitfalls in political activism, how to work with an interest group focused on an area that you are interested in including the sanctity of life and fiscal responsibility, how to use mentoring to encourage Christians to engage in political activism. You will establish key leadership positions in each Congressional district across the state, so ordinary Christians can learn through action.

You educate individuals on how to choose between imperfect candidates as well as instruct individuals that parties matter. They should look at the party they represent and the core beliefs and values of that party. They should look at what the candidate says about the issues and see if their beliefs align with the Bible. Individuals should know the Bible, vote the Bible and vote on values.

Your president has several blogs on your website. A blog describing how to choose between candidates lists considerations that can be used to help make a decision when voting. For example, concerning the topic of partisan political races the blog indicates that party platforms should be looked at to see which candidate is most aligned with Christian/biblical values. The blogs list the some of the most important Christian and biblical values as the sanctity of life, biblical marriage, and government and debt.

Initially, you had references to candidates that aligned with the Christian/biblical value system and had created voter guides that reflected the candidates values. You have since removed such references.

You are funded by donations. Your expenses are for salaries, professional fees, website, social media, video educational marketing, software and festival expenses.

You indicated that you do not engage in any substantial political activity and you are not advocating for specific political parties, candidates, or legislation.

Law

IRC Section 501(c)(3) provides for the exemption from federal income tax of organizations organized and operated exclusively for charitable or educational purposes, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation (except as otherwise provided in Section 501(h), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

Treas. Reg. Section 1.501(c)(3)-1(c)(1) provides that an organization will be regarded as “operated exclusively” for one or more exempt purposes only if it engages primarily in activities that accomplish one or more exempt purposes specified in IRC Section 501(c)(3).

Treasury Regulation Section 1.501(c)(3)-1(c)(3)(i) states that an organization is not operated exclusively for one or more exempt purposes if it is an “action” organization.

Treas. Reg. Section 1.501(c)(3)-1(c)(3)(iii) of the regulations defines an “action” organization as an organization that participates or intervenes, directly or indirectly, in any political campaign on behalf of or in opposition to any candidate for public office. The term “candidate for public office” is defined as an individual who offers himself, or is proposed by others, as a contestant for an elective public office, whether such office be national, State, or local. The regulations further provide that activities that constitute participation or intervention in a political campaign on behalf of or in opposition to a candidate include, but are not limited to, the publication or distribution of written statements or the making of oral statements on behalf of or in opposition to such a candidate.

Rev. Rul. 2007-41 2007-25 I.R.B., provides 21 examples illustrating the application of facts and circumstances to determine whether a 501(c)(3) organization has participated in a political campaign intervention activity. Situation 16 describes an organization in which the executive director presented a preferred position on a prominent issue that distinguishes candidates before an election and encourages individuals to go to the polls and cast their vote. This situation is political campaign intervention. Situation 19 describes an organization that maintains a web site and posts an unbiased, nonpartisan voter guide that is prepared consistent with the principles discussed in Rev. Rul. 78-248. This situation is not political campaign intervention.

In American Campaign Academy v. Commissioner, 92 T.C. 1053 (1989), the court held that an organization that operated a school to train individuals for careers as political campaign professionals, but that could not establish that it operated on a nonpartisan basis, did not exclusively serve purposes described in IRC 501(c)(3) because it also served private interests more than incidentally. The court found that the organization was created

and funded by persons affiliated with a particular political party and that most of the organization's graduates worked in campaigns for the party's candidates. Consequently, the court concluded that the organization conducted its educational activities with the objective of benefiting the party's candidates and entities. Although the candidates and entities benefited were not organization "insiders," the court stated that the conferral of benefits on disinterested persons who are not members of a charitable class may cause an organization to serve a private interest within the meaning of Treas. Reg. Section 1.501(c)(3)-1(d)(1)(ii). The court concluded by stating that even if the political party's candidates and entities did "comprise a charitable class, [the organization] would bear the burden of proving that its activities benefited members of the class in a non-select manner."

Application of law

You are not as described in IRC Section 501(c)(3) because you are not operated exclusively for religious and educational purposes. Specifically, you are engaged in prohibited political campaign invention. You are also operated for substantial nonexempt purposes in contravention to Treas. Reg. Section 1.501(c)(3)-1(c)(1).

You are not described in Treas. Reg. Section 1.501(c)(3)-1(c)(3)(i) in that you spend a substantial amount of time and resources devoted to activities that are typical of an action organization. Treas. Reg. Section 1.501(c)(3)-1(c)(3)(iii) further defines an "action" organization as one that plans to participate and intervene in political campaigns on behalf of or in opposition to candidates for public office. You instruct individuals on issues that are prominent in political campaigns and instruct them in what the Bible says about the issue and how they should vote. These issues include the sanctity of life, the definition of marriage, and biblical justice. These issues generally distinguish candidates and are associated with political party platforms. These facts preclude you from exemption under IRC Section 501(c)(3).

You are similar to Situation 16 in Revenue Ruling 2007-41. Certain aspects are weighed in determining campaign intervention as evidenced within the ruling. While you educate voters on what the bible says about issues, your educational activities are not neutral. The topics typically are affiliated with distinct candidates and specific political party platforms.

You are not similar to Situation 19 in Revenue Ruling 2007-41. Information you present and on your website is not neutral. You instruct individuals on how Christians should use the Bible and vote the Bible.

You are like the organization described in American Campaign Academy, because you are serving the private interests of the D party more than incidentally in contravention to Treas. Reg. Section 1.501(c)(3)-1(d)(1)(ii) as well as serving a substantial nonexempt private purpose. For example, you educate believers on national issues that are central to their belief in the Bible as the inerrant Word of God. Specifically, you educate Christians on what the bible says in areas where they can be instrumental including the areas of sanctity of life, the definition of marriage, biblical justice, freedom of speech, defense, and borders and immigration, U.S. and Israel relations. The bible teachings are typically affiliated with the D party and candidates. This disqualifies you from exemption under IRC Section 501(c)(3).

Conclusion

You do not qualify as an organization described in IRC Section 501(c)(3). You engage in prohibited political campaign intervention. You are also not operated exclusively for one or more exempt purposes within the meaning of Section 501(c)(3), because you operate for a substantial non-exempt private purpose and for the private interests of the D party.

If you agree

If you agree with our proposed adverse determination, you don't need to do anything. If we don't hear from you within 30 days, we'll issue a final adverse determination letter. That letter will provide information on your income tax filing requirements.

If you don't agree

You have a right to protest if you don't agree with our proposed adverse determination. To do so, send us a protest within 30 days of the date of this letter. You must include:

- Your name, address, employer identification number (EIN), and a daytime phone number
- A statement of the facts, law, and arguments supporting your position
- A statement indicating whether you are requesting an Appeals Office conference
- The signature of an officer, director, trustee, or other official who is authorized to sign for the organization or your authorized representative
- The following declaration:

For an officer, director, trustee, or other official who is authorized to sign for the organization:

Under penalties of perjury, I declare that I have examined this request, or this modification to the request, including accompanying documents, and to the best of my knowledge and belief, the request or the modification contains all relevant facts relating to the request, and such facts are true, correct, and complete.

Your representative (attorney, certified public accountant, or other individual enrolled to practice before the IRS) must file a Form 2848, Power of Attorney and Declaration of Representative, with us if they haven't already done so. You can find more information about representation in Publication 947, Practice Before the IRS and Power of Attorney.

We'll review your protest statement and decide if you gave us a basis to reconsider our determination. If so, we'll continue to process your case considering the information you provided. If you haven't given us a basis for reconsideration, we'll send your case to the Appeals Office and notify you. You can find more information in Publication 892, How to Appeal an IRS Decision on Tax-Exempt Status.

If you don't file a protest within 30 days, you can't seek a declaratory judgment in court later because the law requires that you use the IRC administrative process first (IRC Section 7428(b)(2)).

Where to send your protest

Send your protest, Form 2848, if applicable, and any supporting documents to the applicable address:

U.S. mail:

Internal Revenue Service
EO Determinations Quality Assurance
Mail Stop 6403
P.O. Box 2508
Cincinnati, OH 45201

Street address for delivery service:

Internal Revenue Service
EO Determinations Quality Assurance
550 Main Street, Mail Stop 6403
Cincinnati, OH 45202

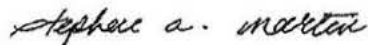
You can also fax your protest and supporting documents to the fax number listed at the top of this letter. If you fax your statement, please contact the person listed at the top of this letter to confirm that they received it.

You can get the forms and publications mentioned in this letter by visiting our website at www.irs.gov/forms-pubs or by calling 800-TAX-FORM (800-829-3676). If you have questions, you can contact the person listed at the top of this letter.

Contacting the Taxpayer Advocate Service

The Taxpayer Advocate Service (TAS) is an independent organization within the IRS that can help protect your taxpayer rights. TAS can offer you help if your tax problem is causing a hardship, or if you've tried but haven't been able to resolve your problem with the IRS. If you qualify for TAS assistance, which is always free, TAS will do everything possible to help you. Visit www.taxpayeradvocate.irs.gov or call 877-777-4778.

Sincerely,



Stephen A. Martin
Director, Exempt Organizations
Rulings and Agreements