

IRS to churches: Don't endorse candidates

October 30, 2013

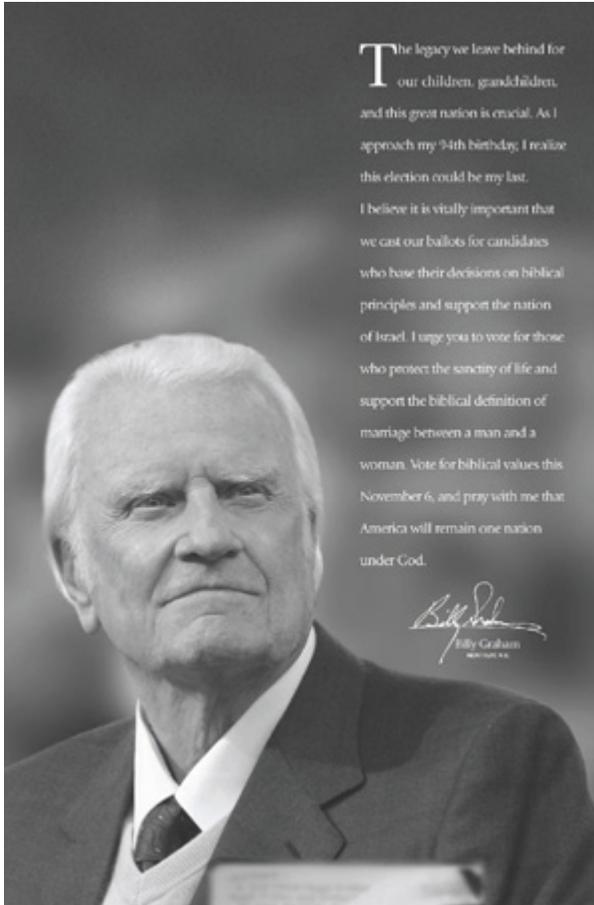
During the last election cycle, Pastor Smith wrote an article for his church's online newsletter saying he personally supported a specific candidate in his bid for the Senate.

Did he endanger his church's tax-exempt status?

Yes, if the Internal Revenue Service had pursued it.

The IRS provides several forms of tax exemption for different types of entities. Houses of worship are among a variety of organizations that qualify for an exemption to certain taxes under current IRS laws—as a 501c3.

To qualify as a 501c3 tax-exempt organization, an entity must be either a charitable, religious, educational, scientific or literary organization, or it must be one that does testing for public safety, or is fostering national or international amateur sports competition, or preventing cruelty to children or animals under the IRS tax code.



Billy Graham ran an advertising campaign in October 2012 encouraging voters to cast their ballots for candidates who “support the biblical definition of marriage between a man and a woman.” The IRS recognizes the term “charitable” to mean “relief to the poor, the distressed or the underprivileged; advancement of religion; advancement of education or science; erecting or maintaining public buildings, monuments or works; lessening the burdens of government; lessening neighborhood tensions; eliminating prejudice and discrimination; defending human and civil rights secured by law; and combating community deterioration and juvenile delinquency.”

The IRS distinguishes between houses of worship and religious organizations. The federal agency automatically recognizes houses of worship as tax-exempt. Although they are not required to file, many churches go ahead and file a letter with the IRS so there will be no

question contributions are tax deductible.

Religious organizations, however, must apply for the exemption unless their gross receipts are usually under \$5,000 annually.

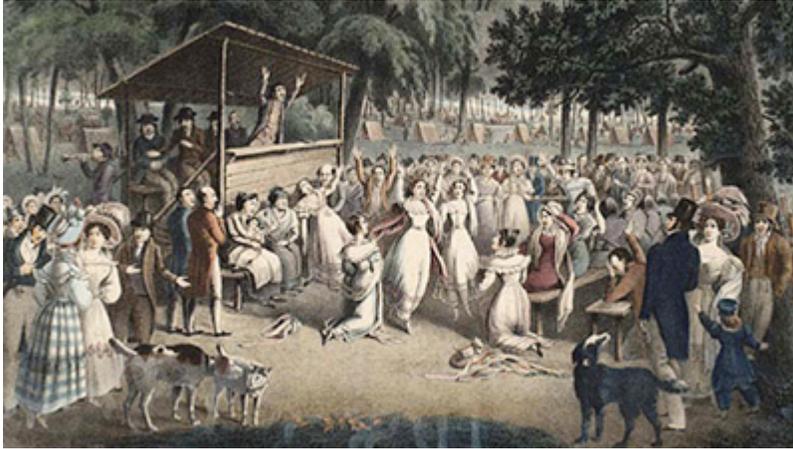
However, with the 501c3 tax-exempt status come certain restrictions, notably participation in the political process.

Congress established “special tax laws applicable to churches, religious organizations and ministers in recognition of their unique status in American society,” the IRS claims in its “Tax Guide for Churches and Religious Organizations” available [as a PDF file](#).

The 501c3 designation benefits those that qualify, including churches, in a number of ways. Public charities are exempt from paying federal corporate income tax. Usually, that translates into exemptions from state and local corporate income taxes, as well. In other words, houses of worship and church-related organizations save money.

Tax exemption offers a form of limited liability protection for employees so if the church closed, its employees would not be personally responsible for its debts.

The exemption also might open the possibility of grants for specific ministries. Often, foundations and other agencies limit grants to public charities.



Political efforts to limit

alcohol consumption and abolish slavery emerged from the Second Great Awakening and its message. (Image: A Camp Meeting during the Second Great Awakening, Painting by Harry T. Peters, Smithsonian Institution) For churches, perhaps the most important benefit is the ability to solicit charitable donations—including offerings from members—that are tax deductible for the donor.

The IRS provision sets five primary requirements entities must meet to qualify for the designation.

Two requirements are fairly straightforward. The group must be organized for religious, educational, scientific or other charitable purposes, and its earnings cannot benefit any private individual or shareholder. One rests on law already in place: The organization's purpose and activities may not be illegal or violate fundamental public policy.

However, the code's two requirements that govern political activity are open to interpretation: No "substantial" part of the organization's activities may "involve attempts to influence legislation," and the group cannot "intervene" in political campaigns.

While the process for a church to secure the exemption is different, the rules that must be followed are the same—the tax code expressly disallows all 501c3 organizations from political involvement.

The code notes all organizations that qualify as not-for-profits under 501c3 “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.” The code further prohibits any “public statements of position”—verbal or written.



The IRS interprets that portion of the code to mean speech could be restricted, even if a candidate isn’t “expressly” named, if the information in the communication is sufficient for readers or listeners to be able to identify the candidate. A communication can be construed as a

violation if it “expresses approval or disapproval of one or more candidates’ positions or actions.”

That was the point that caught the [Billy Graham Evangelistic Association](#) in the 2012 presidential election cycle. Although Billy Graham did not endorse anyone for president, he met with then-Republican candidate Mitt Romney. Many media reports declared Graham “sort of” endorsed Romney through that meeting.

In October that year, Graham also authorized newspaper ads in which he urged people to vote for candidates who supported marriage as biblically defined, who were pro-life and who would defend religious freedom.

Again, he did not explicitly endorse Romney or any Republican candidates nor openly oppose Democratic ones. However, the [Freedom from Religion Foundation](#) sued the IRS for failure to investigate the political activities of churches and religious organizations in 2012, singling out Graham’s association.

Some groups, notably [Alliance Defending Freedom](#), have been trying to push the law's boundaries. Each year, usually in October, the alliance hosts its Pulpit Freedom Sunday in which it encourages pastors to openly defy the law in a worship service.

According to the [American Civil Liberties Union](#), religious not-for-profits are more likely to be challenged on political involvement than are any other type of 501c3 organizations.

While the tax code appears restrictive, congregations, other religious organizations and church leaders have options.



During the 2012 election, Jim Garlow, senior pastor at Skyline Wesleyan Church in La Mesa, Calif., said the IRS prohibition has caused religious leaders to shy away from speaking about what they see as theological truth, such as the belief that homosexuality is biblically unacceptable. (RNS photo courtesy Skyline Church) Churches and religious organizations are allowed to set up a separate 501c4 tax-exempt political arm through which to endorse candidates and lobby for or against issues. The primary restriction is that contributions to a 501c4 are not tax-deductible for donors, and monies given to the 501c3 cannot be transferred to or used by the political arm.

Even as a 501c3, a church can allow candidates to appear and speak in a

worship service, as long as all candidates are given equal time and the speaker introductions are made in neutral language.

[Baptist Joint Committee for Religious Liberty](#) Executive Director Brent Walker emphasized pastors and other ministers, while specifically forbidden to participate in politics in their official capacity, still retain their First Amendment constitutional rights as individuals “as long as it’s clear they are doing it on their own.”

The IRS agrees. In the fictional Pastor Smith case, the minister, while expressing a personal opinion, was doing so in an official church publication.

A pastor or recognized ministry leader can endorse a candidate publicly or lobby for or against an issue such as immigration if he or she is outside the church and clearly states that the endorsement or lobbying effort is a personal choice, even if a story appears on the front page of the local newspaper and the church is identified.

Ultimately, the congregation and church leaders must decide their level of public participation—and what value to place on tax exemptions or other benefits.