



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

CHIEF COUNSEL

December 3, 2001

VIA FACSIMILE & REGULAR MAIL: (202) 219-3923

Rosemary C. Smith
Assistant General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463

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FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
DEC 3 2 26 PM '01

Dear Ms. Smith:

Thank you for sending us a copy of Notice 2001-14 containing proposed rules relating to the use of the Internet for campaign activity. Please be advised that we find no direct conflict with the Internal Revenue Code or the regulations thereunder. The proposed rules as they apply to certain tax-exempt nonprofit corporations and labor organizations, however, raise a concern about whether the activities permitted in your proposed rules may constitute political campaign intervention under the Internal Revenue Code.

Charitable organizations described in section 501(c)(3) of the Internal Revenue Code may not participate, or intervene in, in any political campaign on behalf of (or in opposition to) any candidate for public office. Other nonprofit organizations, such as social welfare organizations described in section 501(c)(4), may intervene or participate in a political campaign provided their primary activity is promoting the social welfare. In addition, political expenditures made by certain tax-exempt organizations, including those made by certain labor organizations, may be subject to tax under section 527(f)(1).

We note that the activities described in proposed 11 CFR 117.2 may constitute political campaign intervention under the Internal Revenue Code depending on all the surrounding facts and circumstances. In certain circumstances, political campaign intervention may include selectively providing hyperlinks to the web sites of candidates. On the other hand, in certain circumstances an organization may provide hyperlinks to candidates in a manner that would not be characterized as political campaign intervention if providing the hyperlinks is consistent with their exempt purpose. Whether an organization's activities constitute political campaign intervention or are related to the organization's exempt purpose depends on all the relevant facts and

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circumstances. See, for example, Rev. Rul. 78-248, 1978-1 C.B. 154 and Rev. Rul. 86-95, 1986-2 C.B. 73 (discussing voter guides and candidate debates) for a discussion of some of the relevant facts and circumstances. In addition, the Internal Revenue Service is reviewing the application of the Internal Revenue Code and the regulations governing tax-exempt organizations (including rules relating to political activities) to Internet activities. See Announcement 2000-84, 2000-2 C.B. 385.

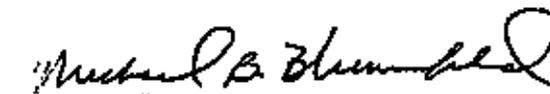
Finally, proposed 11 CFR 117.3 permits certain corporations to post endorsements of candidates on their web sites. Charitable organizations described in section 501(c)(3) cannot endorse candidates for public office.

We hope our comments set forth in this letter aid you in providing this important guidance. Accordingly, we appreciate this opportunity to provide our views on this important issue. If you would like to discuss any of the issues involved, please feel free to call Michael B. Blumenfeld or Cynthia D. Morton at (202) 622-6070.

Sincerely,

Mary E. Oppenheimer
Assistant Chief Counsel
Tax Exempt and Government Entities

By:



Michael B. Blumenfeld
Assistant Branch Chief
Exempt Organizations Branch 1