



COMMISSIONER

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

July 30, 2015

Mr. E. Scott Pruitt
Attorney General
313 N.E. 21st Street
Oklahoma City, OK 73105

Dear Mr. Pruitt:

Thank you for your letter of July 13, 2015, in which you inquired about the prohibition against political campaign intervention activity by section 501(c)(3) organizations, and the impact of the Supreme Court's decision in Obergefell v. Hodges on our administration of the tax laws regarding tax-exempt organizations.

With regard to your first inquiry, and as discussed in our October 29, 2014 response to your letters of August 5, 2014, and October 14, 2014, all section 501(c)(3) organizations are 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 campaigns or public statements, verbal or written, made by an organization in favor of or in opposition to any candidate for public office violate the prohibition against political campaign intervention activity. Violating this prohibition may result in denial or revocation of tax-exempt status and the imposition of certain excise taxes.

Certain other activities or expenditures also may be prohibited, depending on the facts and circumstances. For cases involving churches, compliance with section 7611 of the Internal Revenue Code (the Code), which sets forth certain restrictions applicable to tax inquiries and examinations of churches, is also required. We take very seriously our responsibility to administer and ensure compliance with the Code, while respecting the First Amendment and statutory rights of churches, religious organizations, and other taxpayers.

We are looking to clarify the procedures under section 7611 that have been in the Code of Federal Regulations since 1985. In 2009, proposed amendments to these regulations were published in the *Federal Register*. Public comments on the proposed regulations are at www.regulations.gov/#!docketDetail;D=IRS-2009-0018. Final regulations under section 7611 are on the Treasury Department and IRS 2014-2015 Priority Guidance Plan (available at www.irs.gov/uac/Priority-Guidance-Plan). In addition, part 4.76.7 of the Internal Revenue Manual, *Church Tax Inquiries and Examinations*, at www.irs.gov/irm/part4/irm_04-076-007.html (updated June 1, 2004, August 20, 2010), provides guidelines for conducting tax inquiries and examinations of

churches. Consistent with our standard rulemaking process, the final regulations process includes careful review of the comments to the proposed regulations, taking public feedback into account, and consideration of any necessary changes to the proposed regulations and guidance. We are committed to providing updated standards that are fair, clear, and easier to administer.

I am providing a link to Publication 1828, *Tax Guide for Churches & Religious Organizations*, for your reference: www.irs.gov/pub/irs-pdf/p1828.pdf. This publication expands upon the issues discussed above and explains in greater detail the benefits and responsibilities for these organizations under the federal tax laws. It also provides a non-exclusive list of factors in determining whether a communication results in political campaign intervention, as well as examples.

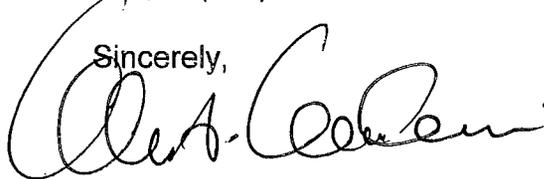
Turning to your second inquiry, the Court in *Obergefell* held that the Constitution does not permit a State "to bar same-sex couples from marriage on the same terms as accorded to couples of the opposite sex." The IRS does not intend to change the standards that apply to section 501(c)(3) organizations by reason of the *Obergefell* decision.

To qualify for tax-exempt status under section 501(c)(3), an organization must be organized and operated exclusively for religious, educational, scientific, or other charitable purposes. In addition, its net earnings may not inure to the benefit of any private individual or shareholder, no substantial part of its activity may be attempting to influence legislation, and, as discussed above, the organization may not intervene in political campaigns.

The IRS does not view *Obergefell* as having changed the law applicable to section 501(c)(3) determinations or examinations. Therefore, the IRS will not, because of this decision, change existing standards in reviewing applications for recognition of exemption under section 501(c)(3) or in examining the qualification of section 501(c)(3) organizations.

I hope this information is helpful. If you have any questions, please contact Leonard Oursler, Director, Legislative Affairs, at (202) 317-6985.

Sincerely,

A handwritten signature in black ink, appearing to read "John A. Koskinen". The signature is fluid and cursive, with a large initial "J" and "K".

John A. Koskinen