



February, 2012

Dear Pastor:

I write to encourage you and your church to support the referendum protecting traditional marriage in Washington. Under current IRS regulations churches may distribute and encourage their members to sign the referendum petition. Churches may even expend their resources to assist the referendum effort. Pastors may leverage their influence or their position in the church to support the referendum if they so choose. Church facilities may also be used to support the referendum.

The law on this point is very clear: Under the Internal Revenue Code section 501(c)(3), churches are only prohibited from expending more than an “insubstantial” part of their overall budget and activities on lobbying matters such as the promotion of the marriage referendum. This legal standard has been interpreted by the federal courts to mean that a church cannot expend more than 5 to 15 percent of its overall budget and activities on supporting or opposing legislation. Churches usually never come anywhere close to this threshold and no church has ever lost its tax exempt status for excessive lobbying. This is one area of the law where no pastor should fear the IRS.

It is also permissible for churches to contribute financially to a 501(c)(4) organization that is involved in the referendum campaign. However, churches must designate any contributions given to a 501(c)(4) organization for support of the referendum and not for the support or opposition of any political candidate since churches are prohibited from supporting or opposing political candidates for office. And churches should know that any contributions are taken into consideration in determining whether the church has crossed the line of not more than an “insubstantial part” of its overall activities and budget spent on lobbying or legislative activities.

But it is not enough to simply acknowledge that churches are legally allowed to support the marriage referendum. Every church in Washington should stand to support the referendum.

Churches must lead the charge on this issue as they led the charge in the past on the great moral issues of history such as independence, slavery, women’s suffrage, ending child labor, and civil rights. Churches and pastors have always been at the forefront of the great moral issues confronting our culture. They have never been afraid to stand for righteousness and to urge morality in culture. And today should be no different.

Churches in Washington have a tremendous opportunity to lead the charge to protect marriage. Churches in other states have not been as fortunate. There is nothing legally preventing churches and pastors from standing together to support and protect marriage in Washington.

This letter is intended to offer general principles and should not be construed as legal advice regarding your particular situation. Churches and pastors may obtain legal advice, free of charge, regarding their particular situation from the Alliance Defense Fund. If you have specific questions, please contact ADF at (800) TELL-ADF.

Sincerely,



Erik W. Stanley
Senior Counsel

IRS CIRCULAR 230 DISCLOSURE: Any tax advice contained in this communication was not written for the purpose of and is not intended to be used for the purpose of (i) avoiding penalties imposed by the Internal Revenue Code or (ii) promoting, marketing, or recommending any transaction or matter addressed herein.