



## **An Open Letter to North Carolina Pastors & Religious Leaders**

### **RE: Support for RFRA & 501(c)(3) Tax Exemption**

Dear Pastor:

Citizens across the great state of North Carolina are currently debating the merits of a proposed religious freedom bill (“RFRA”). You, pastor, have *every* right to join in the discussion without fear of jeopardizing your church’s 501(c)(3) tax-exempt status.

Churches are understandably concerned about the legal ramifications of political activity. For decades, government officials as well as advocacy groups bent on silencing the Church have threatened to revoke the tax-exempt status of churches who have dared to speak out on civic issues. Misinformation and scare tactics have all but silenced the church’s voice on civic issues. But Alliance Defending Freedom is committed to reversing this trend.

Pastor, do not allow yourself to be intimidated into silence. You have every right to shepherd your congregation through this debate over North Carolina’s religious freedom law. You did not surrender your First Amendment freedoms by entering the pastorate, nor do you endanger your church’s tax-exempt status by engaging on civic issues. No church—in any reported case to date—has lost its 501(c)(3) tax-exempt status due to political activity.<sup>1</sup>

But despite this fact, misconceptions concerning IRS restrictions on political activity abound. Here is a short summary of what you need to know about political activity and your church’s 501(c)(3) status.

The IRS imposes two restrictions on a church’s political activity: (1) the lobbying limitation, and (2) the candidate prohibition.

#### **I. The Lobbying Limitation**

Churches and pastors *can* lobby. The IRS simply limits churches to spending no more than an “insubstantial” amount of their resources on lobbying. An “insubstantial” amount is generally considered to be from five to 15 percent of a church’s time and funds *in any given year*.

---

<sup>1</sup> The IRS temporarily revoked the tax-exempt *letter* of one church for purchasing a full-page newspaper advertisement urging Christians to vote against a presidential candidate. But the church’s tax-exempt *status* was untouched. This distinction is crucial. Churches do not need a tax-exempt letter to be tax exempt. Churches are automatically exempt under IRS code. Many churches take the additional step of obtaining a tax-exempt letter from the IRS, but it is not required.

The most important point to recognize about this lobbying limitation is its insignificance. No church has yet come even close to losing its tax-exempt status for substantial lobbying. This is likely because no church has yet come remotely close to expending five percent of all of the time its church doors are open in any given year, or five percent of all its financial expenditures in any given year, on lobbying. This threshold is higher than appears at first glance.

Furthermore, a great deal of activity in support of or opposition to a bill simply does not qualify as lobbying. For example, a pastor may preach on how to evaluate a proposed law from a biblical worldview. Churches may hold educational meetings and distribute educational materials about a proposed ordinance. These activities are not lobbying.

For example, here is a list of things you and your church can do to support the religious freedom bill:

- Preach from the pulpit and encourage your congregation to support the bill.
- Distribute information to your congregation that supports the bill and encourages them to urge their representative to support it.
- Allow speakers to use your church services to explain and support passage of the bill.
- Send out emails or church newsletters to the congregation urging their support of the bill.

These are just a few ideas by way of example. The important point is that your church can act officially to support bills like North Carolina's religious freedom bill.

Finally, pastors acting *individually*, and not as official church representatives, enjoy the same right to speak out as any other citizen. They may freely lobby without implicating the lobbying tally of their churches.

## **II. The Candidate Prohibition**

Churches are recognized as exempt from federal income tax under 501(c)(3) of the Internal Revenue Code so long as they do not "intervene" in political campaigns. Political intervention, essentially, is advocating for or against candidates for political office. This means that the IRS prohibits churches from activities such as:

- endorsing or opposing political candidates,
- making financial contributions to political candidates, and
- distributing political campaign literature.

There are two important points to keep in mind regarding the candidate prohibition. First, the candidate prohibition applies to churches and to pastors *in their official capacities as church*

*representatives*. Pastors acting *individually*, and not as official church representatives, enjoy the same right to speak out as any other citizen. They may freely support or oppose political candidates without violating the candidate prohibition, or implicating their church's 501(c)(3) tax status.

Second, the candidate prohibition bans a narrow category of political activity. Churches and their pastors can still discuss candidates' positions on various issues without violating the candidate prohibition. Churches and their pastors can still distribute non-partisan voter guides, urge their congregants to get out and vote, or even rent out their facilities to candidates on the same terms as any other public group. Only advocating for or against a candidate is prohibited.

We at Alliance Defending Freedom believe that even this narrow IRS prohibition unconstitutionally restricts a pastor's speech. The Scriptures address every aspect of life in principle, if not in precept. Thus, pastors and churches must be free to proclaim biblical truth from the pulpit as it applies to candidates and elections. In fact, for the first 200 years in America, such "political" speech was the norm. Pastors boldly named candidates from the pulpit to help their congregants navigate civic life from a biblical worldview.

This drastically changed in 1954 when Congress, without debate or analysis, amended the Internal Revenue Code to condition tax-exempt status on surrendering such speech. That is why in 2008, Alliance Defending Freedom launched the Pulpit Initiative to challenge government censorship of a pastor's speech from the pulpit. To learn more about this initiative, please visit [PulpitFreedom.org](http://PulpitFreedom.org).

### **III. Conclusion**

Pastor, do not let concerns over tax exemption silence you on important public issues. You have every right to speak out on North Carolina's religious freedom bill—both as a concerned citizen and as a representative of your church. Engaging on civic issues will not jeopardize your church's 501(c)(3) tax-exempt status, and those who suggest otherwise misapprehend the law.

In a culture that is quickly losing its moral compass, your voice is needed now more than ever. Rest assured that should you or your church face the threat of legal action for exercising your right to speak out, Alliance Defending Freedom attorneys stand ready to assist you free of charge.

Respectfully submitted,



---

Christiana M. Holcomb, Litigation Counsel  
Erik W. Stanley, Senior Legal Counsel