

Telephone Tax Refunds

By Charles M. Watkins

IN THE WAKE OF SIX CONSECUTIVE LOSSES in court cases challenging the IRS' authority to collect the three percent excise tax on long distance telephone service, the Treasury Department has announced that the IRS will stop collecting the tax.

The tax was enacted many years ago, and applies only to telephone charges which vary with both the elapsed transmission time and distance.

(Private schools are generally exempt from the tax,



but

may have paid it if they didn't notify their carrier of their exemption.) Because most long distance telephone charges today aren't billed on the basis of distance (but only based on the duration of the call), they're not subject to the tax.

However, the IRS has continued to require carriers to collect the tax. The carriers and several large customers litigated the issue, and the courts have unanimously ruled against the IRS in a series of cases. Because of these losses, the IRS has announced that carriers will no longer bill for the tax after July 31, 2006.

Telephone customers, including organizations exempt from income tax, may claim a refund for taxes billed after February 28, 2003 and before August 1, 2006. The refund will be claimed on the income tax return filed by the taxpayer for the calendar year 2006, or for the taxable year that includes December 31, 2006. Tax-exempt organizations will claim a refund by filing Form 990-T, even if they're not otherwise required to file Form 990-T (because they have income from an unrelated trade or business).

For more information, see IRS Notice 2006-50, available at irs.gov/pub/irs-drop/n-06-50.pdf.

Remember, Churches, It's Important to Watch Your Political Activity

By Charles M. Watkins

IN AN ELECTION YEAR, it's important to remember that churches and ministries which are exempt from federal income tax under §501(c)(3) are prohibited from "intervening (including the publishing or distributing of statements) in any political campaign on behalf of (or in opposition to) any candidate for public office." This

means no endorsements, no contributions to candidates or other political committees, no ratings, and no in-kind use of goods, services, or property without payment of fair market value.

Churches and ministries can sponsor non-partisan candidate forums and debates, and can publish or distribute voter education materials, as long as the events or materials provide opportunities for all major candidates to participate, address a wide variety of issues, and are conducted or published in a nonpartisan, unbiased manner.

Similarly, candidates may be invited to speak at events, provided the same opportunity is extended to other candidates, or the candidate is invited to speak because he or she is a public officeholder or has some other significant, non-candidate reason to speak, nothing is said about his or her candidacy, the election or voting, and no campaign activity occurs in connection with the candidate's appearance.

Church or ministry leaders may participate in electoral activities, as long as they do so on their own time and at their own expense. They should not use church or ministry facilities, events or publications as an opportunity to conduct political activity.

Churches and ministries, and their leaders, who are considering engaging in election-related activity should consult with knowledgeable legal counsel before doing so, and should review IRS Fact Sheet 2006-17, available at irs.gov/newsroom/article/0,,id=154712,00.html.

The IRS has established a "Political Activity Compliance Initiative" to investigate allegations and news reports of political activity by churches and other §501(c)(3) organizations. Additional information about this initiative may be found at irs.gov/charities/charitable/article/0,,id=155030,00.html.

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