

ADVISORY OPINION 2004-003

Any advisory opinion rendered by the registry under subsection (1) or (2) of this section may be relied upon only by the person or committee involved in the specific transaction or activity with respect to which the advisory opinion is rendered. KRS 121.135(4).

July 14, 2004

Ms. Patti Naiser
4949 Brownsboro Road, #127
Louisville, KY 40222

Dear Ms. Naiser:

This is in response to your letter dated June 8, 2004, requesting an advisory opinion regarding your church's contribution to a political issues committee. By letter dated June 25, 2004, the Registry's staff attorney requested additional information from you. To date, the Registry has received no additional communication. Therefore, this advisory opinion will be based on your original request.

Your questions may be summarized as follows:

1. What should a church wishing to collect contributions for a political issues committee do to remain in compliance with Kentucky election laws?
2. If a church accepts contributions via a special collection, then writes a single check payable to a political issues committee, would the contribution then be from the church, which currently qualifies for 501(c)(3) status under the Internal Revenue Code ("IRC") to the political issues committee?

3. In lieu of a single check from the church, may the church encourage contributions to a separate 501(c)(4) social welfare organization that would then contribute to a political issues committee? Would the same rules apply to such a collection?

Regarding your specific questions, there is nothing in KRS Chapter 121 that prohibits a church organized under the IRC as a 501(c)(3) non-profit corporation from making a contribution to a political issues committee organized under KRS 121.015(3)(b) and registered with the Registry under KRS 121.170. KRS 121.035(3) specifically permits corporations to make contributions in support of a constitutional amendment, a public question which appears on the ballot, or a position on an issue of public importance.

However, you should be mindful that under Kentucky law, a political issues committee is specifically defined as “three (3) or more persons joining together to advocate or oppose a constitutional amendment or public question which appears on the ballot if that committee receives or expends money in excess of one thousand dollars (\$1,000).” KRS 121.015(3)(c). Therefore, if your church were to receive a special collection in support of or opposition to a constitutional amendment or public question appearing on the ballot, which totaled more than one thousand dollars (\$1,000), the church itself would be subject to the jurisdiction of the Registry as a political issues committee and would have a duty to register and report.

You are correct that a contribution from a church organized under the Internal Revenue Code (“IRC”) as a 501(c)(3) non-profit corporation shall be reported as a contribution from the church itself. The Registry is without jurisdiction to answer your question concerning the application of the IRC or relevant regulations of the Internal Revenue Service to such a transaction.

Finally, regarding your question about organizing a separate 501(c)(4) organization to receive money to support or oppose a constitutional amendment or public question appearing on the ballot, there is nothing in KRS Chapter 121 to prohibit a church from encouraging its members to contribute directly to a political issues committee organized under KRS 121.015(3)(b) and registered with the Registry under KRS 121.170, regardless of its status under the IRC. Clearly, such an organization would fall under the jurisdiction of the Registry as explained above. However, the Registry is without jurisdiction to advise you regarding the eligibility of such contributions for federal tax credits.

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This advisory opinion represents the Registry's consideration of the specific transactions presented in your letter. If you have any further questions, please do not hesitate to contact the Registry's staff.

Sincerely,

Rosemary F. Center
General Counsel

RFC/jh

Cc: Registry Members
Sarah M. Jackson, Executive Director