

APPENDIX E

IRS Regulations Regarding Maintaining Nonprofit Status

The IRS regulations on the activities of congregations can be summarized as follows:

1. Issue Advocacy

Without limits on time, effort and expense, congregations and their representatives may engage in issue advocacy through activities such as educating and mobilizing congregants and the general public. Example: encouraging the public to show concern for global warming by reducing carbon emissions. Please note that issue advocacy is only acceptable if it does not involve political campaign intervention (see below).

2. Lobbying

Within narrow limits on time, effort and expense, congregations and their representatives may engage in lobbying—defined by the IRS as advocating for or against specific pieces of legislation*—as an "unsubstantial" portion of an organization's activities. The IRS has not provided a strict rule for what constitutes “unsubstantial,” and evaluates on a case-by-case basis. However, courts and the IRS have ruled in the past that lobbying activity constituting 5% or less of total activities is acceptable. "Total activities" includes the total amount of money, staff, and volunteer time that goes into running the organization. While the 5% amount is not a strict rule, it can be used as a guidepost for an organization's lobbying activities. Example: encouraging a city council, state legislature, and/or Congress to pass a particular law to reduce carbon emissions.

3. Political Campaign Intervention

There is a total limit on partisan activity, which the IRS calls political campaign intervention. Congregations and their representatives can do nothing that advocates for or against candidates for public office or political parties. This includes fundraising on behalf of candidates and donating meeting space, among other things. Example: supporting a particular candidate or party because of their stance on carbon emissions. Election-related activities such as candidate questionnaires and forums may be acceptable if certain guidelines are followed; consult section C., “Political (Electoral) Activities” of this guide for details.

Please Note: The restrictions on lobbying and political campaign intervention described here apply only to a congregation as a legal entity, or to a person or group speaking in the name of the congregation. A minister or congregation member may freely engage in these activities as an individual. However, if the person(s) are identified by or likely to be associated with the congregation, it may be helpful to clearly state that they are speaking as individuals. Also, Congress has imposed special limitations, found in section 7611 of the Internal Revenue Code, on how and when the IRS may conduct civil tax inquiries and examinations of churches. The IRS may begin a church tax inquiry only if an appropriate high-level Treasury official reasonably believes, on the basis of facts and circumstances recorded in writing, that an organization claiming to be a church or convention or association of churches may not qualify for exemption (see note 1).

*The following paragraph is taken from the 21 page complete document from the UUA, available here:

https://www.uua.org/sites/live-new.uua.org/files/the_real_rules_2016.pdf

“Legislation” includes: Action by Congress, any state legislature, any local council, or similar governing body, with respect to acts, bills, resolutions, or similar items (such as legislative confirmation of appointive offices);,or [Action] by the public in a referendum, ballot initiative, constitutional amendment or similar procedure. [Legislation] does not include actions by executive, judicial, or administrative bodies. A congregation or religious organization will be regarded as attempting to influence legislation if it contacts, or urges the public to contact, members or employees of a legislative body for the purpose of proposing, supporting, or opposing legislation, or if the organization advocates the adoption or rejection of legislation.

Note 1: IRS Website “Special Rules Limiting IRS Authority to Audit a Church” Reviewed or Updated June 8, 2016.

This summary is reprinted from the UUA website:

<https://www.uua.org/action/realrules-new/summary-real-rules-three-point-system>