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The church-chasing IRS

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How political can a priest's or minister's or a rabbi's sermon be before the government treats his church or synagogue like a lobbying firm? The Internal Revenue Service appears to be borrowing a page from the Clinton administration by testing a new, stricter standard on All Saints Episcopal Church in Pasadena, Calif.

At issue is a fiery sermon delivered there two days before the 2004 presidential election, "If Jesus Debated Sen. Kerry and President Bush," in which he preached that "Jesus would have told the president that his Iraq policies had failed." That apparently was enough for the IRS to conclude the church had endorsed Mr. Kerry -- to the point that over the summer, the IRS informed the Rev. J. Edwin Bacon that it might revoke his church's tax-exempt status.

This is a terrible idea. If the IRS takes it on itself to parse theology and police sermons for political content, it would monitor a range of activities that are none of its business. Churches are already uncertain as to what is permissible and what is not under the current rules, but this -- whatever one thinks of the rector's sermon -- is clearly an attempt to muzzle preachers and discipline churches.

It's sad to see the IRS church-chasing under President Bush, a man of faith who wants to be seen as a "compassionate conservative." There is nothing here that is remotely compassionate or conservative. The relevant tax-code provisions have been on the books since 1954, when Sen. Lyndon Johnson sponsored them, but until Bill Clinton became president the IRS never invoked them. Suddenly, in 1995, the IRS revoked the tax-exempt status of a Binghamton, N.Y.-area church that had placed newspaper advertisements urging voters to reject Mr. Clinton's candidacy.

This was probably inevitable: The relevant tax-code language invites overreaching. It prohibits undesirable things like fundraising and endorsements, but further prohibits any activity "that may be beneficial or detrimental to any particular candidate." That's pretty murky; we pay lawyers for shoddy language like that? This could mean no public campaigns against abortion or euthanasia. Just last week, Roman Catholic Archbishop Roger Mahony of Los Angeles endorsed his state's parental-notification ballot initiative on abortion. Does this mean Archbishop Mahony's endorsement was "beneficial" to Gov. Arnold Schwarzenegger, who backed the initiative and whose governorship undoubtedly benefited from this support? Under the new standard, arguably so.

Clearly, then, it's not just liberals who should be worried. Everyone who values the free speech and religious freedom should be concerned. Short of prohibiting speech that foments riots or encourages terrorism, government should not be able to intrude on the pulpit. The Constitution says so.

If the IRS does not retreat to a constitutional hands-off policy, Congress will have to fix the statute. Reasonable language would prohibit explicit endorsements and fundraising, but anything more should be disallowed. The IRS no doubt understands what "disallowed" means.

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