

Do We Know When to Hire an Attorney?

Take this True/False quiz to find out.

by Frank Sommerville

When it comes to political activity, churches need to maintain neutrality or risk losing their tax-exempt status. Take the following quiz to test your knowledge on the consequences of church political activity. The answer key is at the end of the article.

Evaluate These Statements	True	False
If the church is considering a new source or method of fundraising, it only needs to speak with a financial advisor.		
A church should engage an attorney if it is considering a new or different activity, so the attorney can review the risks associated with that activity.		
If the church is contacted by any taxing agency, it should engage an attorney to respond to the contact.		
When revising its employee handbook, the church does not need to consult with an attorney.		
If the church is revising its governing documents, it should engage an attorney familiar with nonprofit law in its state.		
If the church is considering terminating a lay employee who is protected by law, it should contact an attorney before proceeding.		
When the church is buying or selling land, it should engage a real estate attorney to review the transaction documents.		
If the church is entering into a contract that exposes the church financially, it should engage an attorney to review the contract.		
If the church is contacted by an attorney, it should engage an attorney to respond to the contact.		
If the church becomes uncomfortable with any activity or financial transaction, it should engage an attorney to review the activity or financial transaction.		

How do you find the right attorney?

The key to finding a lawyer is to look for one with the specific expertise and experience you need for the task. For example, tax law is a well-known specialty among lawyers. The Internal Revenue Code covers more than 45,000 pages. Obviously, no tax lawyer has read the entire 45,000 pages. Once you add another 110,000 pages of tax regulations, it becomes impossible for any one tax lawyer to keep up with just the primary authorities. But the Internal Revenue Code sections that address tax exempt organizations cover a few dozen pages. You want the attorney that knows those pages if you have a tax question.

The same is true in real estate, contract law, employment law, copyright law, family law, bankruptcy, consumer law, insurance law, oil and gas law, probate law, etc. No lawyer can know it all. Since many attorneys charge their clients by the hour, the church is paying for the attorney to learn the law applicable to the church's particular issue. The less expertise an attorney has with that particular issue, the longer it will take him or her to learn the law. The "right lawyer" knows what to do immediately, acts effectively and with little wasted effort or wasted expenditures of the church's money.

With that in mind, once the church has defined the problem, then it should begin searching for an attorney who has substantial expertise in dealing with the problem. A church should expect the search to take several days, or even weeks. The goal is to develop a short list of potential attorneys. Begin by searching for attorneys who may have the necessary expertise. For more general issues, the church may start with local attorneys within the church, or those listed in the local phone directory. For specific or unique issues, the search may include attorneys from across the country.

All attorneys specialize to one degree or another. Many states recognize board certified specialists. If the church needs a tax lawyer, the starting point should be those attorneys who are board certified in tax law in its state. For more specific legal issues, start with a Google search about the issue.

In developing the attorney list, the church will network with many attorneys and other professionals. With each phone call, ask about their experience with the church's particular issue. Also, ask for names of other attorneys who may have a more specialized expertise in that area. The best lawyers always know who the best lawyers are in their field of expertise. I have made as many as 75 phone calls to find the right lawyer for a client.

Once the short list is created, review the attorney qualifications in a publication called Martindale Hubbell. It is available on the Internet at martindale.com. This publication asks lawyers to determine the qualifications and ethics of fellow attorneys. Every lawyer is reviewed every five years. If a lawyer is not listed in this publication, it is because they have been practicing law for less than five years or the publication did not receive sufficient responses from fellow lawyers to provide a meaningful rating. Based on their rating system, attorneys who have an "AV" rating are considered the best. In 20 years of practicing law in using this rating system, I have never been disappointed by an attorney who had an AV rating.

From the short list of AV rated attorneys, interview attorneys to determine the best fit.

Answer Key: (1) F (2) T (3) T (4) F (5) T (6) T (7) T (8) T (9) T (10) T