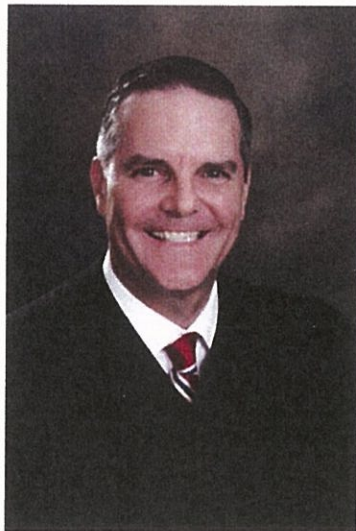


**APPLICATION FOR  
NOMINATION TO THE  
FIFTH DISTRICT  
COURT OF APPEAL  
FOR  
C. JOSEPH BOATWRIGHT II**



## APPLICATION FOR NOMINATION TO THE 5<sup>th</sup> DISTRICT COURT

**Instructions:** *Respond fully to the questions asked below. Please make all efforts to include your full answer to each question in this document. You may attach additional pages, as necessary, however it is discouraged. In addition to the application, you must provide a recent color photograph to help identify yourself.*

Full Name: C. Joseph Boatwright II Social Security No.: [REDACTED]

Florida Bar No.: 626570 Date Admitted to Practice in Florida: 4/16/2003

1. Please state your current employer and title, including any professional position and any public or judicial office you hold, your business address and telephone number.

Putnam County Court Judge, Seventh Judicial Circuit  
410 St. Johns Ave. Room 310  
Palatka, FL 32177  
(386) 329-0269

2. Please state your current residential address, including city, county, and zip code. Indicate how long you have resided at this location and how long you have lived in Florida. Additionally, please provide a telephone number where you can be reached (preferably a cell phone number).

I have lived in Florida my entire life except for the time I was attending law school in Washington, DC. I currently reside at [REDACTED] and have lived here 14 years. My cell phone number is [REDACTED]

3. State your birthdate and place of birth.

[REDACTED]  
Tampa, FL

4. Are you a registered voter in Florida (Y/N)?

Yes

5. Please list all courts (including state bar admissions) and administrative bodies having special admissions requirements to which you have ever been admitted to practice, giving the dates of admission, and if applicable, state whether you have ever been suspended or resigned. Please explain the reason for any lapse in membership.

Florida State Bar (2003) (Bar # 626570)  
United States District Court, Middle District of Florida (2004)  
United States Tax Court (2008)

6. Have you ever been known by any aliases? If so, please indicate and when you were known by such alias.

Joe Boatwright, Carless Joseph Boatwright

#### **EDUCATION:**

7. List in reverse chronological order each secondary school, college, university, law school or any other institution of higher education attended and indicate for each the dates of attendance, whether a degree was received, the date the degree was received, class standing, and graduating GPA (if your class standing or graduating GPA is unknown, please request the same from such school).

**Duke University School of Law, Durham, North Carolina**  
LLM, Judicial Studies (2018)  
GPA and Class Rank not assigned by Duke School of Law

**University of Florida, Levin College of Law, Gainesville, FL**  
LLM, Taxation (2008)  
GPA: 3.86 (The LL.M program did not give class rankings at the time of receiving the degree)

**The Catholic University of America, Columbus School of Law, Washington, D.C.**  
J.D., *Summa Cum Laude* (2002)  
GPA: 3.88 Class Rank: Top1% (2/217)

**Covington Theological Seminary, Rossville, GA**  
Master of Religious Education, M.R.E. (1997)  
GPA: 3.74  
Class Rank not available from Covington Theological

**University of Florida, Gainesville, FL**  
B.A./Political Science (1994)  
GPA: 3.33 Class Rank not available from the University of Florida

**Palatka High School, Palatka, FL**  
High School Diploma (1990)  
Honor Graduate (Class rank was not available)  
GPA: 3.67

8. List and describe any organizations, clubs, fraternities or sororities, and extracurricular activities you engaged in during your higher education. For each, list any positions or titles you held and the dates of participation.
- a. Member of Catholic University Law Review (2001-2002)
  - b. Member of Editorial Board for Judicature Law Journal (2017-2018)
  - c. Editor in Chief of Judicature Law Journal (Spring 2018)

## **EMPLOYMENT:**

9. List in reverse chronological order all full-time jobs or employment (including internships and clerkships) you have held since the age of 21. Include the name and address of the employer, job title(s) and dates of employment. For non-legal employment, please briefly describe the position and provide a business address and telephone number.

**Putnam County Court Judge/Acting Circuit Judge/Putnam County Administrative Judge, 7<sup>th</sup> Judicial Circuit Florida- January 2013-Present.** 410 St. Johns Ave. Room 310, Palatka, FL 32177. (386) 329-0269.

**Associate Judge, 5<sup>th</sup> District Court of Appeal, FL- October 15, 2020.** 300 South Daytona Beach, FL 32144. (386) 947-1530.

**Adjunct Professor, St. Johns River State College, Palatka, FL, January 2014-Present.** 5001 St. Johns Ave., Palatka, FL 32177. (386) 312-4200.

**Adjunct Professor, Liberty University, Helms School of Government, Lynchburg, VA- October 2020-Present.** 1971 University Blvd. Lynchburg, VA 24515. (434) 582-2000.

**Associate Judge, 4<sup>th</sup> District Court of Appeal, FL, July 8, 2019.** 110 South Tamarind Ave., West Palm Beach, FL 3340. (561) 242-2000.

**Associate Judge, 5<sup>th</sup> District Court of Appeal, FL, March 21, 2017.** 300 South Daytona Beach, FL 32144. (386) 947-1530.

**Adjunct Professor, Florida Coastal School of Law, Jacksonville, FL, August 2003-2016.** 8787 Baypine Road, Jacksonville, FL 32256. (904) 861-2459.

**Managing Assistant State Attorney, Office of the State Attorney, 7<sup>th</sup> Judicial Circuit of Florida, - January 2009-2012.** 251 N. Ridgewood Avenue, Daytona Beach, FL 32114. (386) 239-7710.

**Associate Attorney, Ivan, Cole, & Bonnette, Jacksonville, FL, July 2008-December 2008.** 1Independent Drive, Jacksonville, FL 32202

**Associate Attorney, Law Offices of Donald E. Holmes, P.A., Palatka, FL, August 2005-August 2008.**

**Assistant State Attorney, Office of the State Attorney, 7<sup>th</sup> Judicial Circuit of Florida, October 2002- August 2005.** 251 N. Ridgewood Avenue, Daytona Beach, FL 32114. (386) 239-7710.

**Law Clerk, American Center for Law and Justice (ACLJ), Alexandria, VA, , January 2002- May 2002.** 201 Maryland Ave., N.E. Washington, DC 20002. (202) 546-8890.

**Student Attorney, D.C. Law Students in Court Program (LSIC), Washington, D.C., May 2001- December 2001.** 4340 Connecticut Ave. NW #214, Washington, DC 20008. (202) 638-4798.

**Research Assistant, Catholic University, Columbus School of Law, Professor Clifford S. Fishman, May 2001-August 2001.** 3600 John McCormack Rd., N.E. Washington, DC 20064. (202) 319-5151.

**Administrator, Open Bible Academy, Palatka, FL, July 1994-June 2000.** 124 Old San Mateo Road, East Palatka, FL 32131. (386) 325-4770.

10. Describe the general nature of your current practice including any certifications which you possess; additionally, if your practice is substantially different from your prior practice or if you are not now practicing law, give details of prior practice. Describe your typical clients or former clients and the problems for which they sought your services.

#### Current Practice

I currently serve as a county court judge in Putnam County, Florida, which is part of the Seventh Judicial Circuit. I also am cross assigned as an acting circuit court judge. In addition, I am currently the Administrative Judge for Putnam County. Finally, I have been assigned to both the 4<sup>th</sup> and 5<sup>th</sup> District Courts of Appeal as an associate judge. I currently am assigned to the criminal misdemeanor and civil traffic dockets. However, I have handled cases and trials on all of the county court dockets including landlord-tenant, small claims, and county civil. I handle all first appearance hearings during the week. I preside over arraignments, pre-trial conferences, sentencing and violation of probation hearings. I hear numerous motions which, include suppression, evidentiary, modification of probation, and post-conviction issues. I preside over both jury and non-jury trials. On average, I have been assigned to five to ten thousand cases a year. I have presided over 30 jury trials, over 35 non-jury trials, and hundreds of substantive hearings.

As an acting circuit court judge, I have the authority to handle circuit court cases and deal with emergency circuit court issues. I handle emergency motions and hearings dealing with family law

issues, dependency cases, injunctions, civil commitments, and extradition matters. I also preside over felony cases including arraignments, pre-trials, jury selection, motion hearings, and pleas and sentencings . I have been assigned to family law cases, foreclosure actions, civil cases, probate matters, and final injunction hearings. Currently, I have been assigned to the Truancy docket in our family law division. In additon, I have been assigned to handle the Probate and Guardianship docket in St. Johns County.

I have been assigned in the past to the 5th District Court of Appeal to handle criminal, civil, and family law appeals as an associate judge including participating in oral arguments. In addition, in 2019, I was assigned as an associate judge to the 4<sup>th</sup> District Court of Appeal where I handled criminal, civil, probate, and family law appeals while participating in oral arguments and drafting opinions. Finally, I have been recently assigned as an associate judge for the 5<sup>th</sup> District Court of Appeal to handle appellate cases for the week of October 12<sup>th</sup>.

Finally, I serve as the Adminstrative Judge for Putnam County where I am designated to assist the Chief Judge for administrative matters including but not limited to signing reassignment orders upon the recusal (disqualification) of judges in Putnam County; requiring the attendance of prosecutors, defense counsel, clerks, baliffs, and other officers of the court in Putnam County; reviewing the status of inmates in the Putnam County Jail; supervising the selection of venires for petit and grand juries in Putnam County; authorizing the replacement of grand jurors unable to complete their terms; developing a schedule for judicial coverage of First Appearance hearings and consideration of emergency injunctions and other emergency matters that may arise on weekends, holidays, and after hours on weekends; ensuring that court facilities and court proceedings in Putnam County are open and available to the public during normal operating hours; and advising the chief judge on matters related to the space provided by the County Commission for operation of the court system in Putnam County. In addition, I have assited the Chief Judge in helping move the Putnam County Courthouse into re-opening during the COVID 19 health crisis.

I am also currently an adjunct professor at St. Johns River State College in Palatka, Florida. I have served in this position since January 2014. The courses I have taught include Business Law I and II.

I have been hired as an adjunct professor at Liberty University to teach law realted classes for the Helms School fo Government beginning in October 2020.

#### Prior Experience

I was a Managing Assistant State Attorney for the Office of the State Attorney for the 7th Judicial Circuit of Florida. I served in this position from January 2009, until December 2012. In this position, I performed management of the Putnam County Office of the State Attorney, 7th Judicial Circuit of Florida, by supervising the entire office including attorneys and other staff. I personally handled a caseload of felony cases including but not limited to drug, sex, financial, property, DUI manslaughter, and other violent crimes. In addition to these cases, I litigated all civil forfeiture cases for local law enforcement agencies including drafting pleadings, conducting depositions, and

participating in probable cause hearings and trials. Finally, I was assigned to post-conviction relief cases which included drafting responses and arguing the cases at an evidentiary or final hearing.

I was an adjunct professor at Florida Coastal School of Law in Jacksonville, Florida. I served in this position from August 2003-16. The courses I have taught include federal income taxation, partnership tax, corporate tax, legal research and writing, advanced legal research and writing and oral advocacy, criminal procedure, judicial writing, and civil asset seizure/forfeiture law. In performing work in this position, I have prepared lessons, lectured, evaluated writing and research projects, met with students and other faculty, and assigned grades. In order to serve in this position, I taught evening classes, which required travel from my home in East Palatka to Jacksonville at least two evenings per week.

I was an Associate Attorney for Ivan, Cole, & Bonnette, Jacksonville, Florida, from July 2008 to December 2008. Ivan, Cole, & Bonnette was an AV rated tax and estate planning firm, which has now dissolved. In this position, I litigated tax, probate, and trust cases; as well as providing tax planning and advice.

I was an Associate Attorney in the Law Offices of Donald E. Holmes, P.A., Palatka, Florida, from August 2005 to August 2008. Donald E. Holmes, P.A., is an AV rated law firm in Florida. In this position, I litigated all aspects of civil cases involving commercial, real estate, family, land use, and local government law while drafting all pleadings and responses, conducting depositions, arguing at hearings, participating in the discovery process, mediating cases, and preparing for both jury and non-jury trials. Further, I represented court appointed and private clients in criminal matters including felony, misdemeanor, and juvenile cases. I worked on transactional matters including drafting documents for the formation of corporations and LLCs, drafting wills and trusts, and providing tax advice in these areas. I also represented local law enforcement agencies in all civil forfeiture matters including providing legal counsel and training, drafting policies, handling all litigation matters, and providing advice on the use and management of the trust accounts. I also handled all facets of real estate matters including but not limited to foreclosures, specific performance suits, boundary line disputes, ejectment actions, title disputes, commercial and residential landlord tenant matters, state and local taxation issues, and real estate closings. I was involved in the legal representation of local government agencies including the City of Palatka, City of Interlachen, Putnam County Sheriff's Office, Putnam County Code Enforcement, and Supervisor of Elections Office in all election matters for Putnam County.

I served as an Assistant State Attorney in the Office of the State Attorney, 7th Judicial Circuit of Florida, from October 2002 to August 2005. In this position, I handled a caseload of over 250 cases at one time, performed intake on over 300 cases per month, interviewed victims, investigated cases, and litigated all aspects of criminal, misdemeanor, and juvenile cases in both jury and bench trials. I also litigated all aspects of felony cases including drug, sex, fraud, property, and other violent

crimes. This included conducting depositions, arguing at various hearings, writing motions, researching legal issues, participating in the discovery process, selecting juries for trial and presenting cases at trial in both jury and bench trials. I also litigated all civil forfeiture cases for local law enforcement agencies including drafting pleadings, conducting depositions, and participating in probable cause hearings and trials.

I served as a Law Clerk for the American Center for Law and Justice (ACLJ), Alexandria, VA, from January 2002 to May 2002. In this position, I performed legal research and writing on First Amendment, taxation, and other civil liberties issues. I worked on federal legislation and in particular, taxation bills for non-profit groups. This position allowed me to work with experienced attorneys in the field of constitutional law.

I served as a Student Attorney in the D.C. Law Students in Court Program (LSIC), Washington, D.C., from May 2001 to December 2001. I was certified to perform in this capacity by the D.C. Court of Appeals. In this position, I litigated all aspects of landlord/tenant cases while obtaining valuable guidance from experienced attorneys. This position provided me with both case preparation and courtroom experience, and gave me the opportunity to handle an individual case load while having a one-on-one relationship with a seasoned litigator. This work included preparing and filing responsive pleadings on behalf of indigent individuals and arguing written and oral motions before the court on their behalf. I prepared for both jury and bench trials by drafting written and oral motions and filed all necessary responsive pleadings. I conducted client interviews and completed on site investigations for clients.

I served as Research Assistant to Professor Clifford S. Fishman, Catholic University, Columbus School of Law, from May 2001 to August 2001. In this position, I researched legal issues in evidentiary matters and prepared written legal memoranda that were used in publishing evidence treatises Jones on Evidence.

11. What percentage of your appearance in court in the last five years or in the last five years of practice (include the dates) was:

	Court		Area of Practice	
Federal Appellate	<u>0</u> %	Civil	<u>25</u> %	
Federal Trial	<u>0</u> %	Criminal	<u>25</u> %	
Federal Other	<u>0</u> %	Family	<u>25</u> %	
State Appellate	<u>1</u> %	Probate	<u>25</u> %	
State Trial	<u>98</u> %	Other	<u>          </u> %	

State Administrative            1 %  
State Other                                  %

TOTAL                               100 %                       TOTAL                               100 %

If your appearance in court the last five years is substantially different from your prior practice, please provide a brief explanation:

12. In your lifetime, how many (number) of the cases that you tried to verdict, judgment, or final decision were:

Jury?	<u>20(10 first chair;</u>	Non-jury?	<u>20</u>
	<u>10 second chair)</u>		
Arbitration?	<u>                          </u>	Administrative Bodies?	<u>3</u>
Appellate?	<u>                          </u>		

13. Please list every case that you have argued (or substantially participated) in front of the United States Supreme Court, a United States Circuit Court, the Florida Supreme Court, or a Florida District Court of Appeal, providing the case name, jurisdiction, case number, date of argument, and the name(s), e-mail address(es), and telephone number(s) for opposing appellate counsel. If there is a published opinion, please also include that citation.

None as an attorney. However, I have participated as an associate judge on the 4<sup>th</sup> and 5<sup>th</sup> Florida District Court of Appeals. All opinions that I wrote are listed in number 26 below.

14. Within the last ten years, have you ever been formally reprimanded, sanctioned, demoted, disciplined, placed on probation, suspended, or terminated by an employer or tribunal before which you have appeared? If so, please state the circumstances under which such action was taken, the date(s) such action was taken, the name(s) of any persons who took such action, and the background and resolution of such action.

No

15. In the last ten years, have you failed to meet any deadline imposed by court order or received notice that you have not complied with substantive requirements of any business or contractual arrangement? If so, please explain full.

No.

16. For your last six cases, which were tried to verdict or handled on appeal, either before a jury, judge, appellate panel, arbitration panel or any other administrative hearing officer, list the names, e-mail addresses, and telephone numbers of the trial/appellate counsel on all sides and court case numbers (include appellate cases). *This question is optional for sitting judges who have served five years or more.*

1. State of Florida v. Brandall Hawkins; 09-47344 MMAES ( 7th Judicial Circuit, Volusia County)
  - a. State- Josh Alexander and Joe Boatwright (904 824-9788)
  - b. Defense- Joe Warren (386-253-5612)
2. John Salonen v. Jannette Stoeffler; 05-716-CA-53 (7th Judicial Circuit, Putnam County)
  - a. Plaintiff- Donald E. Holmes and Joe Boatwright (386-328-1111)
  - b. Defense- John Key (386 385-3646)
3. State of Florida v. Daniel E. Buchanan; 2004-1285-CF-53 (7th Judicial Circuit, Putnam County)
  - a. State- Joe Boatwright
  - b. Defense- Gary Wood (386-326-3993) and Ronald E. Clark (deceased)
4. State of Florida v. Gary Eugene Bland; 2004-0985-CF-53 (7th Judicial Circuit, Putnam County)
  - a. State- Joe Boatwright
  - b. Defense- Larry Sikes (deceased)
5. State of Florida v. Spencer Faison; 2004-0307-CF-53 (7th Judicial Circuit, Putnam County)
  - a. State- Joe Boatwright
  - b. Defense- Robert Vest (robert\_vst@yahoo.com)
6. State of Florida v. Jose E. Gutierrez; 2003-1173 (7th Judicial Circuit, Putnam County)
  - a. State- Joe Boatwright
  - b. Defense- Kevin Monahan ( 386 325-8673)

17. For your last six cases, which were either settled in mediation or settled without mediation or trial, list the names and telephone numbers of trial counsel on all sides and court case numbers (include appellate cases). *This question is optional for sitting judges who have served five years or more.*

1. Daniel McLendon v. Glen M. Titus; 06-570 CA (7th Judicial Circuit, Putnam County)
  - a. Plaintiff- Joe Boatwright
  - b. Defendant- Lew A. Merryday ( deceased)
2. Patricia Spengler and Robert Spengler v. Derek Mayo and Gordon Zeuhl; 06-175-CA 52 (7th Judicial Circuit, Putnam County)
  - a. Plaintiff- Joe Boatwright
  - b. Defendant- N. Mark New (904 224-4499 )
3. Susan Loosberg v. Andres Loosberg; 07-126-FD-54 (7th Judicial Circuit, Putnam County)
  - a. Petitioner- Leanna Freeman (904 471-7272)
  - b. Respondent- Joe Boatwright
4. Laura Lee Johnson v. Louis Scott Johnson; 07-272-FD
  - a. Peititioner- Joe Boatwright
  - b. Respondent- Charles Esposito (386 627-8310)
5. Tammy Powell v. Edward Powell; 05-1661-FD 54 (7th Judicial Circuit, Putnam County)
  - a. Petitioner-Joe Boatwright
  - b. Respondent-Robert Fields (386-325-2041)
6. Jamie Lynn Chirico v. Anthony Chirico; 06-717-FD-54 (7th Judicial Circuit, Putnam County)
  - a. Petitioner- Rachel Murphy (deceased)
  - b. Respondent- Joe Boatwright

18. During the last five years, on average, how many times per month have you appeared in Court or at administrative hearings? If during any period you have appeared in court with greater frequency than during the last five years, indicate the period during which you appeared with greater frequency and succinctly explain.

As judge I am in court almost every day of the month. Prior to that as an assistant state attorney I was in court 15 to 20 days a month. This would include jury and non-jury trials, administrative court days, and hearings.

19. If Questions 16, 17, and 18 do not apply to your practice, please list your last six major transactions or other legal matters that were resolved, listing the names, e-mail addresses, and telephone numbers of the other party counsel.

N/A

20. During the last five years, if your practice was greater than 50% personal injury, workers' compensation or professional malpractice, what percentage of your work was in representation of plaintiffs or defendants?

N/A

21. List and describe the five most significant cases which you personally litigated giving the case style, number, court and judge, the date of the case, the names, e-mail addresses, and telephone numbers of the other attorneys involved, and citation to reported decisions, if any. Identify your client and describe the nature of your participation in the case and the reason you believe it to be significant.

1. John Salonen v. Jannette Stoeffler; 05-716-CA-53 (7th Judicial Circuit, Putnam County)

a. Plaintiff- Donald E. Holmes and Joe Boatwright (386-328-1111)

b. Defense- John Key (386-385-3646)

c. Judges- Arthur Nichols and Edward Hedstrom

d. Date of Trial: 1-23-2008

e. Our office represented the plaintiff in a complex civil case that was litigated for nearly two years. The case involved a specific performance and breach of contract action involving a dispute over commercial real estate. I drafted the majority of the pleadings including the summary judgment motion, took depositions, and drafted the closing arguments that were submitted to the court. The case was significant in that I was able to litigate a complicated civil case all the way through the trial phase. The main issue in the case involved an option provision, which our client claimed gave him

the right to purchase the subject property. The defendant argued that the provision was a right of first refusal. I drafted and argued a summary judgment motion wherein the court ruled that the provision was an option to purchase. The only issue that remained was the size of the property that the Plaintiff was entitled to purchase. This was the issue that we litigated at trial. The judge asked us to submit written oral arguments and I was involved in drafting those arguments. Subsequently, the judge ruled in our favor and granted specific performance.

2.State of Florida v. Daniel E. Buchanan; 2004-1285-CF-53 (7th Judicial Circuit, Putnam County)

a. State- Joe Boatwright (386-329-0259)

b. Defense- Gary Wood (386-326-3993) and Ronald E. Clark (deceased)

c. Judge- Edward Hedstrom

d. Date of Trial: 4-04-05

e. I represented the State of Florida in this case. The defendant, Mr. Buchanan, was charged with aggravated battery with a firearm. The defendant was a licensed bailbondsman with a subject out on bond. This subject individual had failed to appear for a court appearance. The defendant tried for many months to find the subject individual. He finally made contact with the individual and while the individual was trying to escape, the defendant shot him in the back. The defendant claimed self defense and that as a bondsman he had the same right as a law enforcement officer to use deadly force to effectuate an arrest. This case was significant in that it was politically and racially charged. This is one of the few cases that I have been involved in, for which the public seemed to be against the prosecution. This was a week-long jury trial with over 20 witnesses. The jury found the defendant guilty and he was sentenced to 25 years in prison. His sentence was later overturned on appeal based on a jury selection issue. Although, the case was overturned on appeal, the case was significant in that the appellate court ruled that a bondsman only had the authority to use reasonable force in effectuating an arrest and did not have the same legal authority as a law enforcement officer.

3. State of Florida v. Gary Eugene Bland; 2004-0985-CF-53 (7th Judicial Circuit, Putnam County)

a. State- Joe Boatwright (386-329-0259)

b. Defense- Larry Sikes (deceased)

c. Judge- Arthur Nichols

d. Date of Trial: 5-23-2005

e. I represented the State of Florida in this case. The defendant was a 55 year old man who was accused of committing lewd and lascivious battery on a 15 year old girl. He had previously been convicted of lewd and lascivious molestation. I was able to use the two victims in his previous case as similar fact witnesses in the jury trial. A jury convicted him of lewd and lascivious battery and he was sentenced to the maximum of 15 years in prison. The case was significant in that this was a dangerous individual that we were able to convict and put in prison so that the community was

protected. Further, it gave me great experience in drafting a "Williams Rule" motion and using similar fact witnesses.

4. State v. Sylvester Andrews; 2003-1001-CF-53 (7th Judicial Circuit, Putnam County)

a. State- Joe Boatwright (386-329-0259)

b. Defense- Larry Sikes (904-879-1473)

c. Date of Trial: 2-09-2004

d. Judge- Arthur Nichols

I represented the State of Florida in this case. The defendant in this case was accused of attempted first degree murder. He was accused of stabbing his employer in the back 15 times because the employer did not pay him his wages on time. The jury found him guilty and he was sentenced as an habitual offender to life in prison. The case was significant in that I was able to gain experience using the repeat offender sentencing enhancements and was able to assist in sentencing a dangerous individual to life imprisonment.

5. State of Florida vs. Spencer Faison; 2004-0307-CF-53 (7th Judicial Circuit, Putnam County)

a. State-Joe Boatwright (386-329-0259)

b. Defense- Robert Vest ( robert\_vst@yahoo.com)

c. Judge- Arthur Nichols

d. Date of Trial: 1-10-2005

e. I represented the State of Florida in this case. The defendant was released from prison after serving a murder sentence. The defendant was accused of robbery while wearing a mask. The crime involved robbery of a convenience store by a man wearing a ski mask. The crime occurred within a week of the defendant's release from prison. The jury found the defendant guilty as charged. The defendant was sentenced to 30 years in prison under the Prison Releasee Reoffender statute. The case was significant in that I was able to gain experience using the prison releasee reoffender sentencing provisions and that a violent individual went to prison for 30 years.

6. State of Florida vs. Purcell Bagley

a. State- Joe Boatwright

b. Defendant- Kevin Monahan (386 325-8673)

c. Judge- Carlos Mendoza

I was responsible for drafting responses and arguing post-conviction relief cases while I managed the state attorney's office in Putnam County, FL. The case was significant in that it provided and opportunity to draft a response that dealt with many of the issues that arise in 3.850 motions.

Although these types of cases involve an evidentiary hearing, they do involve appellate type issues and require one to work with the trial court's record in drafting responses.

22. Attach at least two, but no more than three, examples of legal writing which you personally wrote. If you have not personally written any legal documents recently, you may attach a writing sample for which you had substantial responsibility. Please describe your degree of involvement in preparing the writing you attached.

I wrote all of the writing samples provided. There may have been some minor editing and feedback from staff law clerks or law review staff.

### **PRIOR JUDICIAL EXPERIENCE OR PUBLIC OFFICE**

23. Have you ever held judicial office or been a candidate for judicial office? If so, state the court(s) involved, the dates of service or dates of candidacy, and any election results.

Putnam County Court Judge, 7<sup>th</sup> Judicial Circuit, FL- January 2013-Present. I won the election with 56% of the vote to secure this position. I ran unopposed in 2018.

24. If you have previously submitted a questionnaire or application to this or any other judicial nominating commission, please give the name(s) of the commission, the approximate date(s) of each submission, and indicate if your name was certified to the Governor's Office for consideration.

1. I applied for the 5<sup>th</sup> District Court of Appeal, August 2019. My name was certified to the Governor's office.

2. I applied for the 5<sup>th</sup> District Court of Appeal, December 2018. My name was certified to the Governor's office.

3. I applied for the 5<sup>th</sup> District Court of Appeal, May 2018. My name was certified to the Governor's office.

4. I applied for the 7<sup>th</sup> Judicial Circuit, May 2010.

5. I applied for the position of a United States Magistrate Judge for the United States District Court Middle District of Florida in 2016 and 2017.

6. I applied for the position of a United States Magistrate Judge for the United States District Court Eastern District of California in 2017.

25. List any prior quasi-judicial service, including the agency or entity, dates of service, position(s) held, and a brief description of the issues you heard.

N/A

26. If you have prior judicial or quasi-judicial experience, please list the following information:

(i) the names, phone numbers and addresses of six attorneys who appeared before you on matters of substance;

1. Bradley J. Bradley, Esquire

Assistant County Administrator St. Johns County

500 San Sabastian View

St. Augustine, FL 32084

Office (904) 209-0503

Cell (904) 655-1559

2. Kurt Teifke, Esquire

1 Hargrove Grade, Building A Suite 2E

Palm Coast, FL 32137

(386) 269-4551

3. Alex Sharp

General Counsel Putnam County Sheriff's Office

130 Orie Griffin Blvd.

Palatka, FL 32177

Cell (386) 916-0838

4. Andrew Morgan, Esquire

Canan Law

1030 North Ponce de Leon

St. Augustine, FL 32084

Office (904) 217-6209

Cell (904) 382-9897

5. Tance Roberts, Esquire

Matanzas Law

200 Malaga Street Suite 9

St. Augustine, FL

Office (904) 826-1772

Cell (904) 540-6838

6. Charlie Douglas, Esquire

Douglas and Hedstrom, PA

601 St. Johns Ave.

Palatka, FL 32177

Office (386) 328-6000

Cell (904) 673-2118

(ii) the approximate number and nature of the cases you handled during your tenure;

I currently serve as a county court judge in Putnam County, Florida, which is part of the Seventh Judicial Circuit. I also am cross assigned as an acting circuit court judge. In addition, I am currently the Administrative Judge for Putnam County. I currently am assigned to the criminal misdemeanor and civil traffic dockets. However, I have handled cases and trials on all of the county court dockets including landlord-tenant, small claims, and county civil. I handle all first appearance hearings during the week. I preside over arraignments, pre-trial conferences, sentencing, and violation of probation hearings. I hear numerous motions which include suppression, evidentiary, modification of probation, and post-conviction issues. I preside over both jury and non-jury trials. On average, I have been assigned to five to ten thousand cases a year. I have presided over 30 jury trials, over 35 non-jury trials, and hundreds of substantive hearings.

As an acting circuit court judge, I have the authority to handle circuit court cases and deal with emergency circuit court issues. I handle emergency motions and hearings dealing with family law issues, dependency cases, injunctions, civil commitments, and extradition matters. I also preside over felony cases including arraignments, pre-trials, jury selection, motion hearings, and pleas and sentencings. I have been assigned to family law cases, foreclosure actions, civil cases, probate matters, and final injunction hearings. Currently, I have been assigned to the Truancy docket in our family law division. In addition, I am assigned to the Probate and Guardianship docket in St Johns County.

In addition, I have been assigned in the past to 5th District Court of Appeal to handle criminal, civil, and family law appeals as an associate judge. I was recently assigned to 4<sup>th</sup> District Court of Appeal as an associate judge where I was assigned criminal, civil, probate, and family law appeals while participating in oral arguments and drafting opinions.

(iii) the citations of any published opinions;

1. Valencia Reserve Homeowner Ass'n v. Boynton Beach Assocs., XIX LLLP, 278 So. 3d 714 (Fla. 4<sup>th</sup> DCA 2019).

2. FL v. Johnson, 22 Fla. L. Weekly Supp. 1067b

\*\*There are other opinions that I joined in but did not write while serving on the 4<sup>th</sup> and 5<sup>th</sup> District Court of Appeals. I can provide those citations if needed.\*\*

(iv) descriptions of the five most significant cases you have tried or heard, identifying the citation or style, attorneys involved, dates of the case, and the reason you believe these cases to be significant.

1. State of Florida v. Amber Rye, 2012-1572 CT (Putnam County Court, Seventh Judicial Circuit)

a. Trial Date- January 16, 2013

a. State of Florida- Marie Defusco

b. Defense-Mack Brunton

I presided over a jury trial in which the defendant was charged with one count of Driving Under the Influence. The State alleged that the defendant was under the influence of drugs rather than alcohol. The case was significant because it presented a situation where three different expert witnesses testified as to different issues regarding the impairment of the defendant and the drugs in her system. I had to determine the reliability of each witness and decide whether they could testify on highly technical issues.

2. Richard Northrip v. James Nicholson, 2012-145 SC (Putnam County Court, Seventh Judicial Circuit, Florida)

a. Trial Date- February 12, 2013

b. Plaintiff's Attorney- Jeremiah Mulligan

d. Defendant's Attorney- Kevin Sharbaugh

The plaintiff brought claims of Breach of Contract and Unjust Enrichment against the defendant. The plaintiff had performed mechanic services for the defendant in repairing his automobile. The defendant refused to pay the plaintiff for services rendered based on faulty workmanship but later

refused, claiming he did not receive a written estimate as required by Fla. Stat. 559.905. I ruled for the defendant. Although the plaintiff had done substantial work on the defendant's automobile, I ruled for the defendant because the plain language of Fla. Stat. 559.905 and 5<sup>th</sup> DCA precedent of *Osteen v. Morris*, 481 So. 2d 1287 (Fla. 5<sup>th</sup> DCA 1986) required that a written estimate be given in order to recover damages. The case was significant in that it raised issues of statutory interpretation and the use of textualism. In addition, I was confronted with the issue that by following the law the result was not equitable.

3. Kevin Smith and Elizabeth Smith v. Duane Brown Fill Dirt, Inc., 2016-719 CC (Putnam County Court, Seventh Judicial Circuit, Florida)

a. Trial Date- November 22, 2017

b. Plaintiff- Timothy Keyser

c. Defendant- Adam Rowe

The plaintiffs brought claims for Negligent Construction and Trespass on the Case. The plaintiffs alleged that the defendant had negligently constructed a roadway in their neighborhood which changed the water flow and caused damages to their property. The case was significant in that I had to deal with expert witnesses in the area of road construction. In addition, I had to deal with complicated issues regarding surface water runoff due to negligent construction.

4. Village Inn Bar and Grill v. Ronald D. Brown and Sumter County, Fl, 5D16-1897 (Fla. 5<sup>th</sup> District Court of Appeal)

Appellant-Bryan T. Anderson, Esq. and James Schatt, Esq.

Appellee- Christian Waugh, Esq. and George G. Angelidias

I was selected to be an associate judge and assigned appellate cases on the Fifth District Court of Appeals in 2017. One of the cases dealt with complex issues dealing with appellant's claim in trying to gain legal access to his business establishment. The case was significant in that allowed me to be part of the appellate process first hand. I was able to handle the case from start to finish including but not limited to working with the judicial clerk assigned to the case, reading through the record, doing extensive legal research, preparing for and sitting on a oral argument panel, and being involved in the final decision making process.

5. Valencia Reserve Homeowners Association, Inc. v. Boynton Beach Associates, XIX, LLLP, 4D18-1320 (Fla. 4<sup>th</sup> DCA)

a. August 28, 2019

b. Appellant- Robert Rivas, Esq.

c. Appellee- Mark F. Bideau and Robert Kane, Esq.

I was assigned as an associate judge to the 4<sup>th</sup> District Court of Appeal in 2019. This specific case was important as it gave me the opportunity to deal with issues of statutory interpretation

involving a complicated financial statute dealing with a homeowners' association and developer's financial obligations. I was able to draft the opinion in this case and be involved first hand in the opinion drafting process at the appellate level.

27. Provide citations and a brief summary of all of your orders or opinions where your decision was reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, attach copies of the opinions.

Campanhac v. Lauramore, 264 So. 3d 412 (Fla. 5<sup>th</sup> DCA 2019).

28. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, attach copies of the opinions.

N/A

29. Has a complaint about you ever been made to the Judicial Qualifications Commission? If so, give the date, describe the complaint, whether or not there was a finding of probable cause, whether or not you have appeared before the Commission, and its resolution.

Not to my knowledge.

30. Have you ever held an attorney in contempt? If so, for each instance state the name of the attorney, case style for the matter in question, approximate date and describe the circumstances.

No.

31. Have you ever held or been a candidate for any other public office? If so, state the office, location, dates of service or candidacy, and any election results.

No

#### **NON-LEGAL BUSINESS INVOLVEMENT**

32. If you are now an officer, director, or otherwise engaged in the management of any business enterprise, state the name of such enterprise, the nature of the business, the nature of your duties, and whether you intend to resign such position immediately upon your appointment or election to judicial office.

N/A

33. Since being admitted to the Bar, have you ever engaged in any occupation, business or profession other than the practice of law? If so, explain and provide dates. If you received any compensation of any kind outside the practice of law during this time, please list the amount of compensation received.

1. Managing Member of Putnam Enterprises LLC (2004-2009). The LLC was used to buy and sell real estate. The LLC was dissolved in 2009.

2. Florida Coastal School of Law, Jacksonville, FL, Adjunct Professor – August 2003- August 2016.

3. St. Johns River State College, Palatka, FL, Adjunct Professor- January 2014-Present.

4. Liberty University, Helms School of Government, Lynchburg, VA- October 2020-Present.

5. I receive rental Income from rental houses that I own. I own three separate rental houses.

#### **POSSIBLE BIAS OR PREJUDICE**

34. The Commission is interested in knowing if there are certain types of cases, groups of entities, or extended relationships or associations which would limit the cases for which you could sit as the presiding judge. Please list all types or classifications of cases or litigants for which you, as a general proposition, believe it would be difficult for you to sit as the presiding judge. Indicate the reason for each situation as to why you believe you might be in conflict. If you have prior judicial experience, describe the types of cases from which you have recused yourself.

There are no specific types of cases for which I would generally recuse myself. However, I have recused myself in the past from cases where I had conflict of interest or there was a legal basis for doing so. I live in a small county and most my recusals happen when I know one of the parties appearing in front of me.

#### **PROFESSIONAL ACCOMPLISHMENTS AND OTHER ACTIVITIES**

35. List the titles, publishers, and dates of any books, articles, reports, letters to the editor, editorial pieces, or other published materials you have written or edited, including materials published only on the Internet. Attach a copy of each listed or provide a URL at which a copy can be accessed.

1. Editor In Chief Judicature Law Journal, Volume 102 Number 1 (Spring 2018).  
<https://judicialstudies.duke.edu/editions/spring-2018/>

2. Board of Editors Judicature Law Journal, Volume 101 Number 4 (Winter 2017).  
<https://judicialstudies.duke.edu/editions/winter-2017/>

3. C. Joseph Boatwright II, Solving the Problem of Criminalizing the Mentally Ill: The Miami Model, 56 Am. Crim. L. Rev. 135 ( Winter 2019). <https://www.law.georgetown.edu/american->

criminal-law-review/in-print/volume-56-number-1-winter-2019/solving-the-problem-of-criminalizing-the-mentally-ill-the-miami-model/

4. Joe Boatwright, Supreme Collaboration: Fun Stories and Useful Advice for Would-Be CoAuthors, *Judicature Law Journal*, Volume 102 Number 3 (Winter/Fall 2018) (reviewing Bryan Garner, *Nino and Me: My unusual Friendship With Antonin Scalia* (2018)).  
<https://judicialstudies.duke.edu/editions/fall-winter-2018/>

5. C. Joseph Boatwright, The Salvation Army in Moscow- A Less-Than Decisive Victory, 4 *INT'L J. OF NOT-FOR-PROFIT LAW* 4 (2002) at <http://www.icnl.org/resources/research/ijnl/case-notes-newly-independent-states-2>.

6. C. Joseph Boatwright, 1997 Freedom of Conscience and Religious Associations: Its Effect on New Religions, 1 *INT'L J. OF NOT-FOR-PROFIT LAW* 2 (2003). (No longer available online)

7. C. Joseph Boatwright, Should the 501(c)(3) Political Activity Prohibition Be Revoked? 6 *INT'L J. CIV. SOC. L.* 3 (2008). (No longer available online).

36. List any reports, memoranda or policy statements you prepared or contributed to the preparation of on behalf of any bar association, committee, conference, or organization of which you were or are a member. Provide the name of the entity, the date published, and a summary of the document. To the extent you have the document, please attach a copy or provide a URL at which a copy can be accessed.

N/A

37. List any speeches or talks you have delivered, including commencement speeches, remarks, interviews, lectures, panel discussions, conferences, political speeches, and question-and-answer sessions. Include the date and place they were delivered, the sponsor of the presentation, and a summary of the presentation. If there are any readily available press reports, a transcript or recording, please attach a copy or provide a URL at which a copy can be accessed.

A. I have lectured to local law enforcement agencies on the following subjects:

1. Civil Forfeiture Law
2. 4th , 5th , and 6th Amendment Law
3. Case Preparation and Investigation

B. I lectured on the subject of election law to the poll workers in Putnam County, Florida, during the 2004 presidential election.

C. I have lectured to QI Roberts Cambridge Program students on the legal system and constitutional law as part of the justice teaching program.

D. I presented a lecture on the Putnam County State Attorney's Office to the Palatka Kiwanas in 2012.

E. I made a speech on the benefits of Rotary during the Crescent Rotary's installation banquet.

F. I have lectured to Jenkins Middle School students on the legal system as part of the justice teaching program.

38. Have you ever taught a course at an institution of higher education or a bar association? If so, provide the course title, a description of the course subject matter, the institution at which you taught, and the dates of teaching. If you have a syllabus for each course, please provide.

(I have taught law related courses for the past 17 years at the state college and law school level. I have taught at least 50 courses or more during that time period. Providing a syllabus for each course at 5 to 10 pages would be too voluminous to attach. If you would like the course policies or syllabus for any class, I can provide those via e-mail if they are still in my possession.)

A. I have taught the following subjects at Florida Coastal School of Law between 2003-2016:

1. Lawyering Process I: This was a basic legal research and writing course. Its main focus was teaching objective writing skills and the basics of legal research.

2. Lawyering Process II: This class changed its format and became a class that focused on motion writing and oral advocacy. Its main focus was teaching persuasive writing.

3. Lawyering Process II: This originally was a basic appellate writing and oral advocacy course. Its main focus was teaching persuasive writing.

4. Florida Forfeiture Law: This was an advanced writing course that focused on Florida's civil and criminal forfeiture laws.

5. Federal Income Tax: This was an upper level course that covered the laws regarding how the federal income tax provisions affect the individual taxpayer.

6. Taxation of Business Entities: This course covered the federal laws regarding partnership and corporate taxation.

8. Criminal Procedure: This course covered the law on the 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> Amendments of the United States Constitution.

9. Florida Criminal Practice and Procedure: This was a week long intercession course focusing on the practice and procedure of Florida criminal law.

10. Judicial Writing: This was an upper level writing course that was designed for potential law clerks. It involved writing proposed orders, bench memos, and judicial opinions.

B. I have taught the following subjects at St. Johns River State College between 2014-2020:

1. Business Law I: This is a study of the environment in which businesses operate. Consideration is given to legal and social constraints on business. The student is introduced to the judicial system;

administrative, tort, and contract law; agency; business organizations; and governmental regulations.

2. Business Law II: This is a study of legal concepts in the business and commercial setting. Substantive areas to be covered include personal property, sales, commercial paper, secured transactions, real property and estates.

39. List any fellowships, honorary degrees, academic or professional honors, honorary society memberships, military awards, and any other special recognition for outstanding service or achievement. Include the date received and the presenting entity or organization.

1. Awarded Full Merit Scholarship from Duke University School of Law for Master of Judicial Studies, LL.M. program (2016).

2. Selected as Editor in Chief for the Spring 2018 edition of the Judicature Law Journal.

3. Selected to serve on the editorial board for the Winter 2017 edition of the Judicature Law Journal.

4. Selected as a member of the Catholic University Law Review (2001).

5. Graduated Summa Cum Laude, The Catholic University of America, Columbus School of Law (2002).

6. Golden Key National Honor Society, University of Florida (1993).

40. Do you have a Martindale-Hubbell rating? If so, what is it and when was it earned?  
No.

41. List all bar associations, legal, and judicial-related committees of which you are or have been a member. For each, please provide dates of membership or participation. Also, for each indicate any office you have held and the dates of office.

Member of the St. Augustine Inn of Court

Member of Scribes: The American Society of Legal Writers

Former Member Putnam County Bar

Former Member Florida Bar Tax Division

42. List all professional, business, fraternal, scholarly, civic, charitable, or other organizations, other than those listed in the previous question to which you belong, or to which you have belonged since graduating law school. For each, please provide dates of membership or participation and indicate any office you have held and the dates of office.

President Palatka Rotary Club 2019-2020

Vice-President Palatka Rotary Club 2020-2021

Member of Palatka Rotary Club, Palatka, FL

Board Member of the Putnam County Sheriff's Police Athletic League

Board Member Ark Youth Shelter, St. Augustine, FL

Member and Treasurer of God's Way Baptist Church, Hastings, FL

Board Member Project Lighthouse, Palatka, FL

Board Member ARC of Putnam County, FL

Finance Committee Member ARC of Putnam County, FL

Board Member Putnam County Habitat for Humanity

Seventh Judicial Circuit's Pro-Bono Sub-Committee Chairman for Putnam County

Justice Teaching Volunteer

Member Putnam County Public Safety Council

Member of the Federalist Society

43. Do you now or have you ever belonged to a club or organization that in practice or policy restricts (or restricted during the time of your membership) its membership on the basis of race, religion (other than a church, synagogue, mosque or other religious institution), national origin, or sex (other than an educational institution, fraternity or sorority)? If so, state the name and nature of the club(s) or organization(s), relevant policies and practices and whether you intend to continue as a member if you are selected to serve on the bench.

No

44. Please describe any significant pro bono legal work you have done in the past 10 years, giving dates of service.

I have recently been assigned as the Seventh Judicial Circuit's Pro-Bono Sub-Committee Chairman for Putnam County. In this position, I helped coordinate Justice Teaching training for attorneys practicing in Putnam County. Prior to this appointment, I performed pro bono legal

work for an average of about 30 hours a year from 2005 until 2012. It should be noted that during two years of this time period, I was working full-time and going to school to get my LL.M. The remaining amount of my legal career has been spent working for the State Attorney's Office. The pro bono work that I performed was accomplished on my own and was in the form of providing legal advice to non-profit organizations, representing students in expulsion hearings in front of the Putnam County School Board, and providing legal advice to indigent individuals.

45. Please describe any hobbies or other vocational interests.

I enjoy playing golf, fishing and writing.

46. Please state whether you have served or currently serve in the military, including your dates of service, branch, highest rank, and type of discharge.

No

47. Please provide links to all social media and blog accounts you currently maintain, including, but not limited to, Facebook, Twitter, LinkedIn, and Instagram.

None

#### **FAMILY BACKGROUND**

48. Please state your current marital status. If you are currently married, please list your spouse's name, current occupation, including employer, and the date of the marriage. If you have ever been divorced, please state for each former spouse their name, current address, current telephone number, the date and place of the divorce and court and case number information.

I am married to [REDACTED] Boatwright. She is a housewife. We were married on January 6, 2007. I have never been divorced.

49. If you have children, please list their names and ages. If your children are over 18 years of age, please list their current occupation, residential address, and a current telephone number.

[REDACTED] -12

[REDACTED] - 9

[REDACTED] - 6

#### **CRIMINAL AND MISCELLANEOUS ACTIONS**

50. Have you ever been convicted of a felony or misdemeanor, including adjudications of guilt withheld? If so, please list and provide the charges, case style, date of conviction, and terms of any sentence imposed, including whether you have completed those terms.

No

51. Have you ever pled nolo contendere or guilty to a crime which is a felony or misdemeanor, including adjudications of guilt withheld? If so, please list and provide the charges, case style, date of conviction, and terms of any sentence imposed, including whether you have completed those terms.

No

52. Have you ever been arrested, regardless of whether charges were filed? If so, please list and provide sufficient details surrounding the arrest, the approximate date and jurisdiction.

No

53. Have you ever been a party to a lawsuit, either as the plaintiff, defendant, petitioner, or respondent? If so, please supply the case style, jurisdiction/county in which the lawsuit was filed, case number, your status in the case, and describe the nature and disposition of the matter. Yes. I was sued in the County Court, Seventh Judicial Circuit, In and For Putnam County, Florida. I was a named defendant along with the Putnam County Sheriff's Office and the Office of the Public Defender. We were sued in Small Claims Court by a former criminal defendant. It was unclear from the complaint as to the actual allegations but it dealt with an allegation of causing him emotional distress. Motions to Dismiss were filed and the case was dismissed.

54. To your knowledge, has there ever been a complaint made or filed alleging malpractice as a result of action or inaction on your part?

No

55. To the extent you are aware, have you or your professional liability carrier ever settled a claim against you for professional malpractice? If so, give particulars, including the name of the client(s), approximate dates, nature of the claims, the disposition and any amounts involved.

No

56. Has there ever been a finding of probable cause or other citation issued against you or are you presently under investigation for a breach of ethics or unprofessional conduct by any court, administrative agency, bar association, or other professional group. If so, provide the particulars of each finding or investigation.

No

57. To your knowledge, within the last ten years, have any of your current or former co-workers, subordinates, supervisors, customers, clients, or the like, ever filed a formal complaint or accusation of misconduct including, but not limited to, any allegations involving sexual harassment, creating a hostile work environment or conditions, or discriminatory behavior

against you with any regulatory or investigatory agency or with your employer? If so, please state the date of complaint or accusation, specifics surrounding the complaint or accusation, and the resolution or disposition.

No

58. Are you currently the subject of an investigation which could result in civil, administrative, or criminal action against you? If yes, please state the nature of the investigation, the agency conducting the investigation, and the expected completion date of the investigation.

No

59. Have you ever filed a personal petition in bankruptcy or has a petition in bankruptcy been filed against you, this includes any corporation or business entity that you were involved with? If so, please provide the case style, case number, approximate date of disposition, and any relevant details surrounding the bankruptcy.

No

60. In the past ten years, have you been subject to or threatened with eviction proceedings? If yes, please explain.

No

61. Please explain whether you have complied with all legally required tax return filings. To the extent you have ever had to pay a tax penalty or a tax lien was filed against you, please explain giving the date, the amounts, disposition, and current status.

Yes. I have filed all legally required tax return filings.

## HEALTH

62. Are you currently addicted to or dependent upon the use of narcotics, drugs, or alcohol?

No.

63. During the last ten years have you been hospitalized or have you consulted a professional or have you received treatment or a diagnosis from a professional for any of the following: Kleptomania, Pathological or Compulsive Gambling, Pedophilia, Exhibitionism or Voyeurism? If your answer is yes, please direct each such professional, hospital and other facility to furnish the Chairperson of the Commission any information the Commission may request with respect to any such hospitalization, consultation, treatment or diagnosis. ["Professional" includes a Physician, Psychiatrist, Psychologist, Psychotherapist or Mental Health Counselor.] Please describe such treatment or diagnosis.

No.

64. In the past ten years have any of the following occurred to you which would interfere with your ability to work in a competent and professional manner: experiencing periods of no sleep for two or three nights, experiencing periods of hyperactivity, spending money profusely with extremely poor judgment, suffering from extreme loss of appetite, issuing checks without sufficient funds, defaulting on a loan, experiencing frequent mood swings, uncontrollable tiredness, falling asleep without warning in the middle of an activity. If yes, please explain.

No.

65. Do you currently have a physical or mental impairment which in any way limits your ability or fitness to properly exercise your duties as a member of the Judiciary in a competent and professional manner? If yes please explain the limitation or impairment and any treatment, program or counseling sought or prescribed.

No.

66. During the last ten years, have you ever been declared legally incompetent or have you or your property been placed under any guardianship, conservatorship or committee? If yes, provide full details as to court, date, and circumstances.

No.

67. During the last ten years, have you unlawfully used controlled substances, narcotic drugs, or dangerous drugs as defined by Federal or State laws? If your answer is "Yes," explain in detail.

No.

(Unlawful use includes the use of one or more drugs and/or the unlawful possession or distribution of drugs. It does not include the use of drugs taken under supervision of a licensed health care professional or other uses authorized by Federal or State law provisions.)

68. In the past ten years, have you ever been reprimanded, demoted, disciplined, placed on probation, suspended, cautioned, or terminated by an employer as result of your alleged consumption of alcohol, prescription drugs, or illegal drugs? If so, please state the circumstances under which such action was taken, the name(s) of any persons who took such action, and the background and resolution of such action.

No.

69. Have you ever refused to submit to a test to determine whether you had consumed and/or were under the influence of alcohol or drugs? If so, please state the date you were requested to submit to such a test, the type of test required, the name of the entity requesting that you submit to the test, the outcome of your refusal, and the reason why you refused to submit to such a test.

No.

70. In the past ten years, have you suffered memory loss or impaired judgment for any reason? If so, please explain in full.

No.

## **SUPPLEMENTAL INFORMATION**

71. Describe any additional education or experiences you have which could assist you in holding judicial office.

Prior to practicing law, from 1994-1999, I served as the principal/administrator for Open Bible Baptist Academy, which was located in Putnam County, Florida. I served as senior educator, teacher, coach, and administrator/manager of budgets, facilities, and all ancillary priorities and requirements of a self-sustaining private school. I supervised and evaluated teachers and staff. I counseled students and parents. Finally, I attained accreditation for the school all six years of employment.

This prior experience has been invaluable to me as a judge. I learned how to deal with sensitive issues concerning children and their parents. This experience taught me to be consistent and fair in my dealings with others. I learned the importance of being respectful to all of those involved in the education process including those in authority over me. It is these principles that I continue to use on a daily basis as a judge and in my dealings with individuals in the community.

72. Explain the particular contribution you believe your selection would bring to this position and provide any additional information you feel would be helpful to the Commission and Governor in evaluating your application.

The combination of my legal and work experience, education, and writing skills are the contributions that I would bring to this position. As a trial judge and as a practicing attorney, I have been involved in over 100 jury and non-jury trials combined. As a trial judge, I am in a unique position to deal with issues daily that become the foundation of the appeals process. In addition, as an attorney I have been involved in numerous complicated trials that raised appellate issues. By being involved as both an attorney and judge in such trials, I am now better able to understand and recognize issues that become the basis of appeals. Finally, in my assignments to the 4<sup>th</sup> and 5<sup>th</sup> District Courts of Appeal I have been able to gain invaluable experience in the appellate court process through preparing and participating in oral arguments, working with other judges and clerks, and participating in the opinion writing process.

I was fortunate to work for a small AV rated law office in Putnam County, FL. This gave me the unique opportunity to handle all types of cases in most areas of law. This unique experience has been invaluable as a trial court judge. More importantly, on my recent assignment to the 4<sup>th</sup> and 5<sup>th</sup> District Courts of Appeal, the assigned cases all raised issues that I confronted in either private practice or as an assistant state attorney.

Being able to research and write well are necessary requirements for an appellate judge. I have extensive experience in the field of legal research and writing. I have taught numerous classes in legal research and writing for over 10 years at the law school level. These classes have ranged from basic legal writing to more advanced forms of appellate advocacy and judicial writing. In addition, I have numerous published academic articles. Also, I have been the editor in chief of one the most comprehensive and prestigious law journals aimed at issues affecting judges.

Successful performance on the appellate court requires critical thinking and problem solving. My academic background shows that I have the aptitude for critical legal thinking and problem solving. I graduated second in my graduating class from the Catholic University, Columbus School of Law. I have an LL.M. in Taxation from the University Florida, where I excelled academically in one of the toughest law related subject areas. Finally, I received an LL.M. in Judicial Studies from Duke Law School where I had the privilege of studying law with 25 judges from around the country. In addition, I had some of the greatest professors in the country including United States Supreme Court Justice Samuel Alito, legal writing expert Bryan Garner, former United States Supreme Court clerks, and many nationally recognized experts in the academic legal field.

Finally, I have always strived to be professional as both an attorney and as a judge, and treat people with respect. As a judge, I strive to be fair and impartial and follow the law.

## REFERENCES

73. List the names, addresses, e-mail addresses and telephone numbers of ten persons who are in a position to comment on your qualifications for a judicial position and of whom inquiry may be made by the Commission and the Governor.

1. Judge Spencer Levine

Florida 4<sup>th</sup> District Court of Appeal Judge

110 South Tamarind Ave.

West Palm Beach, FL 33401

Office (561) 242-2000

Cell (954) 559-4356

2. Melissa Miller

Senior Vice President/General Counsel St. Johns River State College

5001 St Johns Ave.

Palatka, FL 32177

Office (386) 312-4105

Cell (352) 214-5859

melissamiller@sjrstate.edu

3. Judge Charles J. Tinlin

St. Johns County Court Judge

4010 Lewis Speedway

St. Augustine, FL 32084

(904) 827-5611

(904) 808-6601

4. RJ Larizza

State Attorney 7<sup>th</sup> Judicial Circuit

251 N Ridgewood Avenue

Daytona Beach, FL 32114

Office (386) 239-7710

Cell (386) 235-5591

5. Major Jeremiah Blocker

St. Johns County Commissioner

Air Force JAG

101 Marketside Ave. Suite 404-195

Ponte Vedra, FL 32081

Cell (352) 362-9317

6. Judge Carlos E. Mendoza

United States District Court Judge, Middle District of Florida

401 West Central Boulevard

Orlando, FL 32801

(407) 835-4310

carlos\_mendoza@flmd.uscourts.gov

7. Chief Judge Raul Zambrano

State of Florida, 7th Judicial Circuit

101 North Alabama Ave.

Deland, FL 32724

Office (386) 943-7060

Cell (386) 852-3268

rzambrano@circuit7.org

8. Frank Talbot

Assistant United States Attorney

300 North Hogan Street, Suite 700

Jacksonville, FL 32202

(904) 301-6184

Frank.m.talbot@usdoj.gov

9. Homer "Gator" Deloach

Putnam County Sheriff

130 Orie Griffin Blvd.

Palatka, FL 32177

Cell (386) 937-7907

10. Hunter Conrad, Esquire

St. Johns County Administrator

500 San Sebastian View, St. Augustine, FL 32084

Office (904) 209-0530

Cell (904) 687-3465

*FLORIDA DEPARTMENT OF LAW ENFORCEMENT*

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C. Joseph Boatwright, II  
Printed Name of Applicant

C. Joe Boatwright II  
Signature of Applicant

Date: 10-6-2020

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The judicial application shall include a separate page asking applicants to identify their race, ethnicity and gender. Completion of this page shall be optional, and the page shall include an explanation that the information is requested for data collection purposes in order to assess and promote diversity in the judiciary. The chair of the Commission shall forward all such completed pages, along with the names of the nominees to the JNC Coordinator in the Governor's Office (pursuant to JNC Uniform Rule of Procedure).

(Please Type or Print)

Date: 10-6-2020

JNC Submitting To: Fifth DCA

Name (please print): C. Joseph Boatwright, II

Current Occupation: Putnam County Court Judge

Telephone Number: [REDACTED]

Attorney No.: 626570

Gender (check one): ☒ Male ☐ Female

Ethnic Origin (check one): ☒ White, non-Hispanic

☐ Hispanic

☐ Black

☐ American Indian/Alaskan Native

☐ Asian/Pacific Islander

County of Residence: Putnam


## CERTIFICATE

I have read the foregoing questions carefully and have answered them truthfully, fully and completely. I hereby waive notice by and authorize The Florida Bar or any of its committees, educational and other institutions, the Judicial Qualifications Commission, the Florida Board of Bar Examiners or any judicial or professional disciplinary or supervisory body or commission, any references furnished by me, employers, business and professional associates, all governmental agencies and instrumentalities and all consumer and credit reporting agencies to release to the respective Judicial Nominating Commission and Office of the Governor any information, files, records or credit reports requested by the commission in connection with any consideration of me as possible nominee for appointment to judicial office. Information relating to any Florida Bar disciplinary proceedings is to be made available in accordance with Rule 3-7.1(l), Rules Regulating The Florida Bar. I recognize and agree that, pursuant to the Florida Constitution and the Uniform Rules of this commission, the contents of this questionnaire and other information received from or concerning me, and all interviews and proceedings of the commission, except for deliberations by the commission, shall be open to the public.

Further, I stipulate I have read, and understand the requirements of the Florida Code of Judicial Conduct.

Dated this 6th day of October, 2020.

C. Joseph Boatwright II  
Printed Name

  
Signature

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# WRITING SAMPLES

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
FOURTH DISTRICT

**VALENCIA RESERVE HOMEOWNERS ASSOCIATION, INC.,**  
Appellant,

v.

**BOYNTON BEACH ASSOCIATES, XIX, LLLP,**  
Appellee.

No. 4D18-1320

[August 28, 2019]

Appeal from the Circuit Court for the Fifteenth Judicial Circuit, Palm Beach County; Peter D. Blanc, Judge; L.T. Case No. 502016CA007123XXXXMBAB.

Robert Rivas of Sachs Sax Caplan, P.L., Tallahassee, for appellant.

Mark F. Bideau and Robert R. Kane III of Greenberg Traurig, P.A., West Palm Beach, and Julissa Rodriguez and Jay A. Yagoda of Greenberg Traurig, P.A., Miami, for appellee.

BOATWRIGHT, JOE, Associate Judge.

Appellant, Valencia Reserve Homeowners Association, Inc. ("HOA"), appeals the circuit court's final order granting partial summary judgment in favor of Appellee, Boynton Beach Associates XIX, LLLP ("Developer"). The HOA challenges the Developer's use of certain monies collected from homeowners to offset the Developer's financial obligation to the HOA. Specifically, the HOA claims that the Developer's use of the "working fund contribution" to offset its financial obligation to the HOA is prohibited by the Homeowners' Association Act ("HOA Act"), codified in Chapter 720, Florida Statutes. We hold that the Developer's use of the working fund contributions to offset its financial obligation to the HOA does not contravene Chapter 720. Therefore, we affirm the decision below.

**BACKGROUND**

Valencia Reserve is a single-family home residential community located in Palm Beach County. Valencia Reserve's HOA was established and governed pursuant to a Declaration of Covenants, Restrictions and

Easements ("declaration") and the HOA Act. The Developer controlled the HOA from its inception until the date of turnover, when the Developer gave control of the HOA to the community's homeowners.

According to the declaration, the Developer was required to pay its share of assessments on any lot owned by the Developer while the Developer was in control of the HOA. Pursuant to the declaration and the HOA act, the Developer had the right to excuse itself from payment of its share of assessments related to its lots so long as the Developer obligated itself to pay the deficit—*i.e.*, any operating expenses incurred during the guarantee period which exceeded the assessments receivable from other members. The guarantee period began when the Developer recorded the declaration and ended upon the turnover date.

The declaration defined the term "deficit" as the difference between the operating expenses incurred by the HOA during the guarantee period and the sum of: 1) the amounts assessed as guaranteed assessments against owners during the guarantee period; 2) the "working fund contributions"; and 3) any other income of the HOA.

In order to offset the deficit obligation, the Developer used a provision in the declaration called the "Working Fund Contribution." The declaration's section entitled "Working Fund Contribution" states as follows:

Each Owner who purchases a Lot with a Home thereon from [the Developer] shall pay to the [HOA] at the time legal title is conveyed to such Owner, a "Working Fund Contribution." The Working Fund Contribution shall be an amount equal to a three (3) months' share of the annual, non-abated Operating Expenses applicable to such Lot pursuant to the initial Budget . . . . The purpose of the Working Fund Contribution is to insure that the [HOA] will have cash available for initial start-up expenses, to meet unforeseen expenditures and to acquire additional equipment and services deemed necessary or desirable by the Board. Working Fund Contributions are not advance payments of Individual Lot Assessments and shall have no effect on future Individual Lot Assessments, nor will they be held in reserve. . . . Working Fund Contributions . . . may also be used to offset Operating Expenses, both during the Guarantee Period . . . and thereafter.

The Developer elected to excuse itself from paying its share of assessments and thereby obligated itself to pay the deficit incurred during

the guarantee period. Before the turnover, the Developer used the working fund contributions to satisfy the deficit, as authorized by the above provision.

The HOA then sued the Developer, claiming that the working fund contributions could not be used to offset the deficit obligation under the HOA Act. Both parties filed cross motions for summary judgment. The circuit court granted summary judgment in favor of the Developer, finding that the working fund contributions could be used to offset the deficit amount. This appeal follows.

### **STANDARD OF REVIEW**

A trial court's interpretation of a declaration of a homeowners' association is subject to de novo review. *Klinow v. Island Court at Boca W. Prop. Owners' Ass'n, Inc.*, 64 So. 3d 177, 180 (Fla. 4th DCA 2011). "The constitution and by-laws of a voluntary association, when subscribed or assented to by the members, becomes a contract between each member and the association." *Waverly 1 & 2, LLC v. Waverly at Las Olas Condo. Ass'n, Inc.*, 242 So. 3d 425, 428 (Fla. 4th DCA 2018) (citation omitted). "Issues of contract and statutory interpretation are reviewed de novo as they raise questions of law." *MacKenzie v. Centex Homes*, 208 So. 3d 790, 793 (Fla. 5th DCA 2016).

### **APPLICABLE LAW**

"When the language of the statute is clear and unambiguous and conveys a clear and definite meaning, there is no occasion for resorting to the rules of statutory interpretation and construction; the statute must be given its plain and obvious meaning." *A.R. Douglass, Inc., v. McRaney*, 137 So. 157, 159 (Fla. 1931). "This court is without power to construe an unambiguous statute in a way which would extend, modify, or limit its express terms or its reasonable and obvious implications. To do so would be an abrogation of legislative power." *Am. Bankers Life Assur. Co. of Fla. v. Williams*, 212 So. 2d 777, 778 (Fla. 1st DCA 1968). "When a statute is susceptible to only one reasonable interpretation, the plain language of the statute controls. Only where the plain language of a statute is ambiguous—where a reasonable person could find two different meanings leading to two different outcomes—will this Court resort to the tools of statutory construction." *See MacKenzie*, 208 So. 3d at 793 (citation omitted). Finally, "[a] statute should be interpreted to give effect to every clause in it, and to accord meaning and harmony to all of its parts." *Giamberini v. Dep't of Fin. Servs.*, 162 So. 3d 1133, 1136 (Fla. 4th DCA

2015) (citation omitted). “A single word or provision of a statute cannot be read in isolation.” *Id.*

“The purposes of [the HOA Act] are to give statutory recognition to corporations not for profit that operate residential communities in this state, to provide procedures for operating homeowners’ associations, and to protect the rights of association members without unduly impairing the ability of such associations to perform their functions.” § 720.302(1), Fla. Stat. (2018). To this end, Section 720.309(1), Florida Statutes (2018), states:

Any grant or reservation made by any document, and any contract that has a term greater than 10 years, that is made by an association before control of the association is turned over to the members other than the developer, and that provides for the operation, maintenance, or management of the association or common areas, must be fair and reasonable.

With regard to a developer’s financial obligation to an HOA before turnover, Section 720.308(1)(b), Florida Statutes (2018), provides:

While the developer is in control of the homeowners’ association, it may be excused from payment of its share of the operating expenses and assessments related to its parcels for any period of time for which the developer has, in the declaration, obligated itself to pay any operating expenses incurred that exceed the assessments receivable from other members and other income of the association.

Thus, Section 720.308(1)(b) allows a developer to forego paying HOA assessments on lots which it owns provided that the developer agrees “to pay any operating expenses incurred that exceed the assessments receivable from other members and other income of the association.” *Id.*

If a developer chooses to rely upon Section 720.308(1)(b), the developer’s potential financial obligation to the HOA is calculated using a formula outlined in Section 720.308(5), Florida Statutes (2018). Section 720.308(5) provides:

The guarantor’s total financial obligation to the association at the end of the guarantee period shall be determined on the accrual basis using the following formula: the guarantor shall pay any deficits that exceed the guaranteed amount, less the

total regular periodic assessments earned by the association from the members other than the guarantor during the guarantee period regardless of whether the actual level charged was less than the maximum guaranteed amount.

In other words, at the end of the guarantee period, when the developer turns over control of the HOA to the homeowners, the developer must pay “any deficits that exceed the guaranteed amount, less the total regular periodic assessments” received from other HOA members. *Id.*

An “assessment,” as defined by Section 720.301(1), Florida Statutes (2018), is a “sum or sums of money payable to the association, to the developer or other owner of common areas, or to recreational facilities and other properties serving the parcels by the owners of one or more parcels as authorized in the governing documents, which if not paid by the owner of a parcel, can result in a lien against the parcel.” Further, Section 720.308(1) and (1)(a), Florida Statutes (2018), provides that “the governing documents must describe the manner in which expenses are shared and specify the member’s proportional share thereof” and “assessments levied pursuant to the annual budget or special assessment must be in the member’s proportional share of expenses as described in the governing document.” Notably, Sections 720.308(6) and 720.308(4)(b), Florida Statutes (2018), prohibit the developer from using “[a]ny portion of the parcel assessment which is budgeted for designated capital contributions of the association” to pay for operating expenses.

If an HOA declaration’s terms contravene a governing statute, the term is deemed invalid. *Palm Bay Towers Corp. v. Brooks*, 466 So. 2d 1071, 1074 (Fla. 3d DCA 1984). However, a declaration’s terms are afforded a “very strong presumption of validity which arises from the fact that each individual [lot] owner purchases his [lot] knowing of and accepting” the declaration’s terms. *Hidden Harbour Ests., Inc., v. Basso*, 393 So. 2d 637, 639 (Fla. 4th DCA 1981).

### **ANALYSIS**

The issue before this Court is whether the Developer’s use of the working fund contributions to offset its deficit obligation is prohibited by Chapter 720 and, in particular, Section 720.308. We begin our analysis by noting that the statutory provisions at issue in the instant case are clear and unambiguous such that this Court has no occasion to resort to the rules of statutory construction. *See MacKenzie*, 208 So. 3d at 793. Thus, we must give the relevant provisions in Chapter 720 their plain and obvious meanings. In doing so, we hold that the declaration’s terms, which

permitted the Developer to use the working fund contributions to offset its deficit obligation, did not contravene Chapter 720. Therefore, we affirm the circuit court's final order granting partial summary judgment in the Developer's favor for the following reasons.

First, the declaration's section entitled "Working Fund Contribution" clearly stated that each lot owner would be obligated to pay an amount equal to three months' share of the initial budget's annual, non-abated operating expenses. The declaration specified that these funds were due at the time legal title was conveyed to the lot owner. Significantly, the declaration specifically stated that these funds could be used for, among other things, initial startup expenses, unforeseen expenditures, and "to offset Operating Expenses, both during the Guarantee Period . . . and thereafter." The declaration also explicitly stated that the working fund contribution could be used to reduce the operating expense deficit. As the declaration contained these terms at the time of recording, every Valencia Reserve lot owner agreed to pay the working fund contribution and knew that these funds could be used to cover operating expenses and offset the Developer's deficit obligation. *See Hidden Harbour Ests., Inc.*, 393 So. 2d at 639. Given that each lot owner expressly agreed to these terms upon completing the property purchase, we similarly find that the declaration's provision authorizing the Developer to use the working fund contributions to offset its deficit obligation was "fair and reasonable" as required by Section 720.309(1).

Second, the Developer's use of the working fund contributions to pay for operating expenses did not violate Sections 720.308(4)(b) and 720.308(6). Under these sections, a developer may not pay for operating expenses using lot assessments which have been budgeted for designated capital contributions. Here, the working fund contributions were not budgeted for designated capital contributions, thus, Sections 720.308(4)(b) and 720.308(6) do not apply.

Third, we agree with the circuit court's conclusion that the working fund contributions qualified as regular periodic assessments for the purpose of calculating the Developer's final deficit obligation under Section 720.308(5). Per the declaration, all lot owners were required to pay the working fund contribution at the time of conveyance. The declaration further stated that the working fund contributions could be used to pay the HOA's operating expenses or offset operating expenses during or after the guarantee period. Under Chapter 720, nothing prevents an assessment from being used to pay an HOA's operating expenses. Consequently, the working fund contribution would qualify as an assessment as it could be used to pay the expenses of the HOA.

Although only paid once, the working fund contribution was equal to three months' share of the annual regular assessments calculated pursuant to the initial budget. In essence, the working fund contribution was the first regular periodic assessment, due as an upfront, lumpsum payment. Thereafter, periodic payments were due at regular intervals set by the declaration. Accordingly, the working fund contribution is consistent with a regular periodic assessment that could be used to pay or offset operating expenses.

In conclusion, the use of the working fund contributions to offset the Developer's deficit obligation did not violate the HOA Act. We find nothing in Chapter 720 that prohibits the Developer's action in this case. If the legislature wishes to prevent such action, it can do so by enacting legislation to that effect.

Finally, we find no merit to the HOA's argument that genuine issues of material fact precluded summary judgment. The parties filed cross motions for summary judgment and stipulated that there were no material facts in dispute. Moreover, the HOA has not identified any disputed material facts to support its argument that summary judgment was improper.

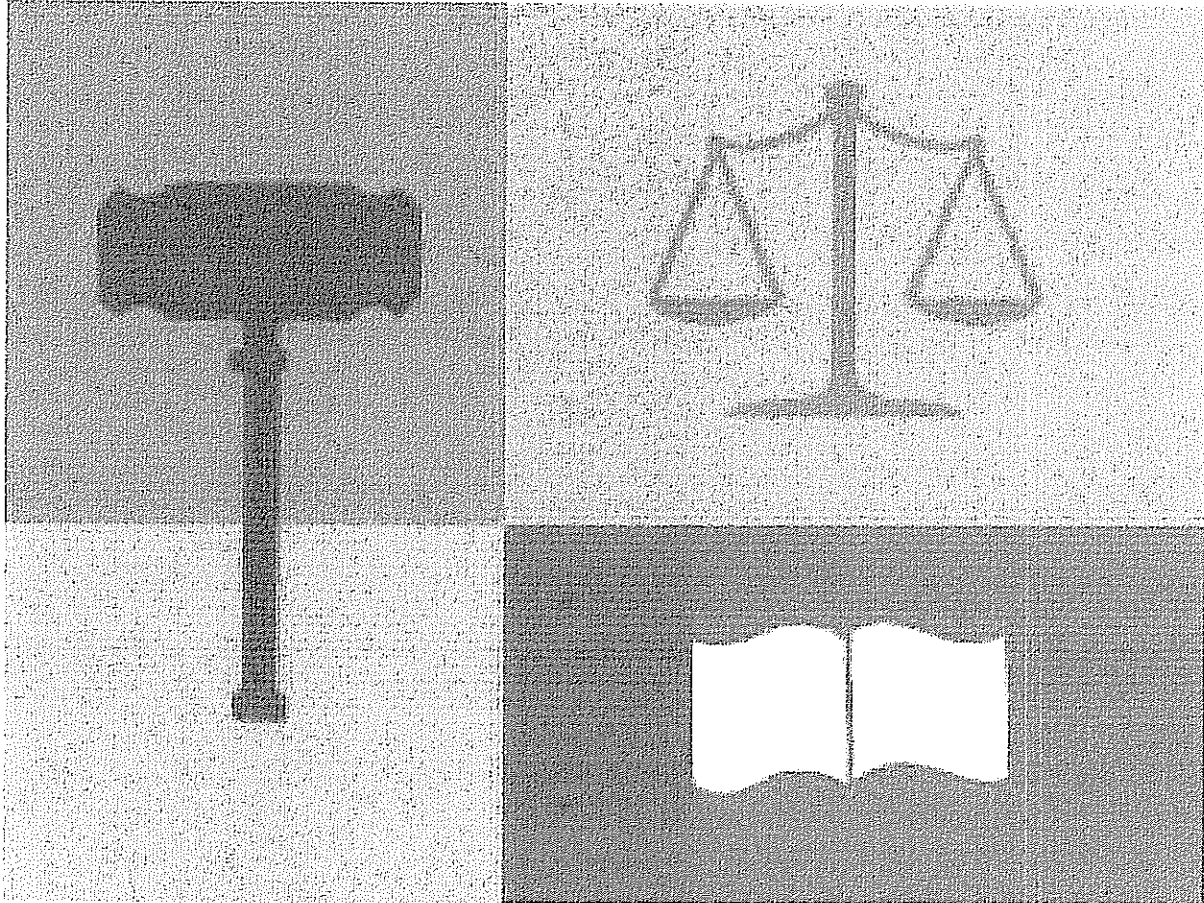
Therefore, we affirm the decision below.

*Affirmed.*

LEVINE, C.J. and KUNTZ, J., concur.

\* \* \*

***Not final until disposition of timely filed motion for rehearing.***



# **INTERNATIONAL JOURNAL OF CIVIL SOCIETY LAW**

**VOLUME VI ISSUE III**

**JULY, 2008**

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July 31, 2008

LETTER FROM THE EDITOR

Dear Readers,

For those in the northern hemisphere, this is a time of steamy, hot days and longing for the cooler time of autumn. But work does not stop even in the heat, so we bring to you our latest issue of IJCSL filled with interesting articles to read (at the beach?)

The first article visits a question that is pressing not only in the United States, but also in many other countries where CSOs are restricted in the amount of advocacy activities they can pursue if they wish to achieve the highest level of tax benefits. The author, **C. Joseph Boatwright**, a Jacksonville, FL attorney, discusses the “political activity prohibition” in Internal Revenue Code § 501 (c)(3), with particular reference to religious organizations.

This topic is one that has received a great deal of attention in both the popular and the academic press because of the Internal Revenue Service (IRS) initiative to restrict election-related activities at churches and other religious institutions throughout the United States (among other organizations). Readers of the Newsletter will recall discussions of the controversy involving All Saints Episcopal Church in Pasadena, CA as well as other aspects of the IRS initiative. Mr. Boatwright's careful and considered analysis of the situation gives a great deal of historical background for the “political activity prohibition” and makes a well-reasoned argument as to why it should be repealed, at least with respect to religious organizations.

The Special Section this quarter includes three items of interest with regard to **anti-terrorism legislation**. At a time when serious concerns have been raised about potential and actual infringement of civil liberties as a result of legislation and other government activities related to pursuing terror suspects, the Special Section is quite significant in bringing together three different approaches to the issue, specifically as it affects charities and other not-for-profit organizations. Concerns have been raised in developing countries, where anti-terrorism legislation is frequently used to target CSOs that are not in favor with the government. In addition, as this Special Section demonstrates, the issues are pertinent in developed countries once thought to be bastions of civil liberties.

The first of the items in the Special Section, an excerpt from the new (July 2008) **Charity Commission for England and Wales “Counter-terrorism Strategy”** describes how an independent agency within government seeks to thread its way between effective oversight and enforcement and respect for the sector it oversees. For example, the Commission stresses that it seeks “a balance between support and guidance, prevention and compliance intervention.” Whether its efforts to do so will be successful remains to be seen.

The second item is a paper by **Terrance S. Carter**, a lawyer practicing in Toronto, Canada, which addresses concerns about the way in which the legislation adopted to address the potential for terrorism in Canada has had an adverse impact on charities working there and internationally. Presented in April at the University of Iowa Provost's Forum on International Affairs 2008:

Counter-Terrorism and Civil Society, Mr. Carter's article is entitled **"The Impact of Anti-terrorism Legislation on Charities in Canada: The Need for Balance."**

The article discusses the fairly onerous requirements of recent legislation aimed at combatting terrorism in Canada and their disparate impact on charities. Many clearly seek to ignore or avoid the application of the laws, while others will be subject to extreme paperwork burdens involved with compliance. In seeking the balance he proposes, Mr. Carter urges regulators to try to fit the oversight regime to the circumstances, arguing that most charities are not going to be potential targets of terrorist's activities.

Rounding out the Special Section is a publication co-authored by **Kay Guinane of OMB Watch and Vanessa Dick of Grantmakers Without Borders**. It details the ways in which anti-terrorism legislation in the United States has adversely affected "charities, foundations, and the people they serve." This article, entitled **"Collateral Damage,"** has received significant attention since its original publication on the OMB Watch website, and we are very pleased to present it to an international audience.

Guinane and Dick's article details the flawed assumptions on which the U. S. anti-terrorism measures aimed at charities are based, the barriers they create for international philanthropy and programs, the failure to grant adequate due process rights and the damaging effect that has had on charities, etc. They also discuss other implications of the legislation and other rules, including the curtailment of free speech. This article is truly an indictment of the manner in which the government has pursued its anti-terrorist agenda in ways that harm civil liberties.

All in all both the stand-alone article and the Special Section offer much food for thought. Any reader comments and letters in response would be welcome. In the meantime, happy reading!

Karla W. Simon, Editor-in-Chief

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## **IJCSL EDITORIAL POLICY**

July, 2008

Dear Reader,

**CONTENT – The IJCSL publishes articles on a variety of topics**, seeking to provide a venue for an international readership to learn about and express opinions on developments in law affecting civil society. These topics and the array of opinions on them are complex and sometimes controversial. The opinions expressed herein do not necessarily reflect the views of the IJCSL or its editorial staff.

**STYLE – The IJCSL publishes articles by contributors from around the world.** Therefore, the IJCSL uses a flexible editorial policy regarding questions of style. Articles submitted by persons for whom the English language is native are edited based on the author's original syntax and spelling. Articles submitted by persons for whom the English language is not native are edited according to American English style.

Occasionally, the IJCSL publishes articles in languages other than English. In those instances, articles are published as submitted and the IJCSL provides an English-language summary.

**QUESTIONS & COMMENTS – The IJCSL welcomes readers' questions and comments** on items it publishes. If you have a question or comment, please contact:

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Patrick McCormally, Managing Editor

[simon@cua.edu](mailto:simon@cua.edu)  
[mccormally@gmail.com](mailto:mccormally@gmail.com)

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Sincerely,

The IJCSL Editorial Staff and Editorial Board

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6 INT'L J. CIV. SOC. L. 3 at [http://www.iccs1.org/pubs/08-07\\_IJCSL.pdf](http://www.iccs1.org/pubs/08-07_IJCSL.pdf)

## ARTICLES

### SHOULD THE 501(c)(3) POLITICAL ACTIVITY PROHIBITION BE REVOKED?

BY C. JOSEPH BOATWRIGHT\*

#### I. INTRODUCTION

Churches and other tax exempt organizations that meet the qualifications of §501(c)(3) are exempt from federal income taxes.<sup>1</sup> However, the churches and organizations are only tax exempt if they do not “participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.”<sup>2</sup> This language is known as the “Political Activity Prohibition.”<sup>3</sup> Any church or organization violating this part of §501(c)(3) can lose its tax exempt status or be subject to penalties.<sup>4</sup>

In 2000, the U.S. Court of Appeals for the District of Columbia upheld the constitutionality of the “Political Activity Prohibition” and allowed the Internal Revenue Service (IRS) to strip a church in Binghamton, New York, of its tax exempt status for being involved in political activity that violated the prohibition in §501(c)(3).<sup>5</sup> In light of the decision, Walter Jones, a Congressman from North Carolina, and representatives from the American Center for Law and Justice worked together to propose an amendment to §501(c)(3) which would allow churches the freedom to be involved in political activities including but not limited to speech “on behalf of or opposition to a political candidate.”<sup>6</sup> The concern was that churches would not be able to engage in political speech from the pulpits of churches without losing their tax exempt

---

\* JD Catholic University of America, Columbus School of Law; LLM University of Florida College of Law; Attorney Ivan Cole & Bonnette, Jacksonville, FL, and Adjunct Associate Professor, Florida Coastal University Law School.

<sup>1</sup> 26 U.S.C. §501(c)(3) (2006).

<sup>2</sup> *Id.*

<sup>3</sup> DARRYLL K. JONES ET. AL., *TAX LAW OF CHARITIES AND OTHER EXEMPT ORGANIZATIONS* 471 (1<sup>ST</sup> ED. 2003).

<sup>4</sup> See *Branch Ministries v. Rossotti*, 211 F.3d 137 (D.C. Cir. 2000).

<sup>5</sup> *Id.* The church ran newspaper ads that opposed a political candidate for office which violated the political activity prohibition.

<sup>6</sup> American Center for Law and Justice, *Permissible and Impermissible Political Activity by Houses of Worship*, <http://www.aclj.org/news/Read.aspx?ID=86>

status. As a result in 2002, Walter Jones sponsored HR-235 which was entitled the "Houses of Worship Free Speech Restoration Act" in an attempt to amend §501(c)(3).<sup>7</sup> The bill was voted down by the House of Representatives in 2003.<sup>8</sup> Congressman Jones has tried on numerous occasions since 2003 to amend §501(c)(3) by sponsoring different versions of bills that would do away with the "Political Activity Prohibition," but as of yet none of the versions have passed.<sup>9</sup> In 2007, Congressman Jones sponsored H.R. 2275 which will seek to strike the entire portion of the "political activity prohibition" language and as of January, 2008 the bill has been referred to House Committee on Ways and Means.<sup>10</sup>

This article will discuss whether the "political activity prohibition" should be revoked. In discussing whether the "political activity prohibition" should be revoked, this article will first discuss the history behind the political activity prohibition. Next, the article will discuss the different tax exempt theories which allow the charitable deduction. Third, the article will discuss the tax consequences of violating the "political activity prohibition." Fourth, the article will discuss exactly what type of political activity would be allowed if the "political activity prohibition" were revoked. Then, this article will discuss the tax effect and consequences of revoking the "political activity prohibition." Then, the article will discuss free speech and establishment clause issues that relate to the "political activity prohibition." Next, the article will discuss the dilemma that the IRS faces by holding to strict enforcement of the prohibition against political activity. The IRS faces a dilemma in that strict enforcement of the prohibition would require costly monitoring of every church in the country. Further, if the IRS selectively enforces such a provision, targets could claim that the government is favoring different religions over others. Conversely, if the IRS sits idle, there will be rampant abuse of the prohibition. Last, the article will conclude that a revocation of the political activity prohibition should not be allowed, but Congress should amend the prohibition to allow an insubstantial amount of political conduct which would in turn allow the IRS to properly enforce the provision.

## A. II. HISTORY OF THE POLITICAL ACTIVITY PROHIBITION

Most proponents of bills such as H.R. 2275 believe that the "Political Activity Prohibition" as it stands in its current form was never meant to apply to churches.<sup>11</sup> Some individuals take the position that the "Political Activity Prohibition" came about during the Senate administration of Lyndon Johnson. During Johnson's administration, two non-profit organizations were causing Johnson political problems by actively supporting those candidates that opposed Johnson, and as

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<sup>7</sup> Id.

<sup>8</sup> Id.

<sup>9</sup> Id. Jones has proposed different versions of the a bill to amend §501(C)(3) between 2002-2007 but none have passed as to date.

<sup>10</sup> H.R. 2275, 110<sup>th</sup> Cong. (2007). The Bill is entitled "To restore the Free Speech and First Amendment rights of churches and exempt organizations by repealing the 1954 Johnson Amendment."

<sup>11</sup> See Jennifer M. Smith, *Article: Morse Code, Da Vinci Code, Tax Code and...Churches: An Historical and Constitutional Analysis of Why Section 501(C)(3) Does Not Apply to Churches*, 23 J.L. & Politics 41 (Winter 2007).

a result, he sought to have their non-profit status revoked.<sup>12</sup> Regardless of Senator Johnson's motivations, there are those that argue that the tax exempt status of an organization under §501(c)(3) is based on the charitable nature of the organization.<sup>13</sup> Thus, if an organization is involved in politics then it is not by its nature charitable. A brief look at the history of the charitable deduction will tend to show that the political activity prohibition has its roots in common law and that even prior to 1954, Congress sought to place limits on political activity and charitable status of entities.

#### A. Pre-1954 History

Tax exempt status for churches and other charitable organizations under §501(C)(3) has its roots in the common law of "Charitable Trusts."<sup>14</sup> A charitable trust is a trust that either provides for relief of poverty, advances education, advances religion, or includes trusts for other purposes that are beneficial to the community.<sup>15</sup> In order for the trust to obtain tax relief, the trust must be charitable and must provide a public benefit.<sup>16</sup> A trust that serves political purposes is not charitable and does not provide a public benefit.<sup>17</sup> As a result, a trust that serves political purposes does not qualify as a "charitable trust" under the common law.

The Courts and the IRS have recognized that charitable exemptions are based on the common law of concept of charity as found in the law of charitable trusts.<sup>18</sup> One of the requirements of the common law concept of a charity is that the charity must provide a public benefit.<sup>19</sup> In analyzing the roots of the common law charity, a political purpose was held not to be a public benefit because courts were unable to tell whether the political activity would or would not benefit the public.<sup>20</sup>

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<sup>12</sup> *House Committee on Ways and Means*, May 14, 2002 (Statement of the Hon. Walter B. Jones, a Representative in Congress from the State of North Carolina).

<sup>13</sup> Karla W. Simon, *The Tax-Exempt Status of Racially Discriminatory Religious Schools*, 36 *Tax L. Rev.* 477 (1981).

<sup>14</sup> *Id.*; *See also Green v. Connally*, 330 F. Supp. 1150 (D.C. Cir. 1971)(holding that § 501(C)(3) has its roots in charitable trust law.)

<sup>15</sup> Abraham Drassinower, *The Doctrine of Political Purposes in the Law of Charities: A Conceptual Analysis* 289 (2007) (citing to Lord Macnaghten's oft-cited definition in *Commissioners for Special Purpose of Income Tax v. Pemsel*, [1891] A.C. 531, 583.

<sup>16</sup> *Id.*

<sup>17</sup> *Bowman and Others v. Secular Society*, [1916-1917] 1 ALL ER at 18. (stating that a trust for the attainment of political objects has always been held invalid, not because it is illegal, for everyone is at liberty to advocate or promote by any lawful means a change in the law, but because the court has no means of judging whether a proposed change in the law will or will not be for the public benefit, and therefore cannot say that a gift to secure change is a charitable gift.)

<sup>18</sup> *Bob Jones Univ. v. United States*, 461 U.S. 574, 579 (1983).

<sup>19</sup> *Id.*

<sup>20</sup> Drassinower, *supra* note 15.

It was based on this idea of charitable trust law that an exemption provision to similar to 501(C)(3) was enacted by Congress in the Revenue Act of 1894.<sup>21</sup> In 1913, the first formal exemption for charitable organizations was enacted under the Revenue Act of 1913.<sup>22</sup> Debates prior to the passage of the Act indicated that the charitable exemption would be only for those organizations that were not organized for profit and were charitable.<sup>23</sup> The Supreme Court interpreted the exemption provision in the 1913 Act and noted that the exemption for the charitable organizations was based on the public benefit they provide.<sup>24</sup>

It was not until 1920 that language prohibiting political activity began to surface in Regulations promulgated under the Revenue Act of 1918.<sup>25</sup> Under Regulation 45 Article 517(1), an “association formed to disseminate controversial or partisan propaganda” was not considered to be charitable under the Act.<sup>26</sup> In 1927, the United States Board of Tax Appeals, applying the above regulation, held that a contribution to an organization which had as one of its purposes to support candidates for public office that advocated the organization’s positions was not charitable.<sup>27</sup> As a result, since the organization was not charitable, any deductions based on contributions to the organization were disallowed.<sup>28</sup>

In the Revenue Act of 1934, Congress denied charitable status to organizations which devoted a substantial part of their activities to “carrying on propaganda, or otherwise attempting to influence legislation.” This addition was known as the “lobbying restriction.” Although this provision is different from the “politician activity prohibition” of the 1954 and 1987 act, it showed a move by Congress to address the issues of political activity by charities prior to the 1954 Johnson amendment.<sup>29</sup>

In summary, the “political activity prohibition” was recognized prior to the 1954 Revenue Act. Courts have recognized that even though there was no political activity prohibition in the code, the prohibition was rooted in the common law on which 501(c)(3) was conceptually based.<sup>30</sup> The law of charitable exemptions and deduction under 501(c)(3) has its root in the

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<sup>21</sup> Simon, *supra* note 13; unrelated portions of the act were declared unconstitutional in *Pollock v. Farmer's Loan & Trust Co.*, 158 U.S. 601 (1895).

<sup>22</sup> *House Committee on Ways and Means*, April 20, 2005 (Statement of Bruce Hopkins, Attorney, Polsinelli Shalton Welte Suelthaus, P.C., Kansas City, Missouri)(stating that this was the first formal constitutional exception.)

<sup>23</sup> Simon, *Supra* note 13.

<sup>24</sup> *Trinidad v. Sagrada Orden*, 263 U.S. 578 (1924).

<sup>25</sup> *Treas. Reg* 45 Art 517(1).

<sup>26</sup> *Id.*

<sup>27</sup> *Fales v. Commissioner*, 9 B.T.A. 828 (1927).

<sup>28</sup> *Id.*

<sup>29</sup> I.R.C. §103(6) (1934 Revenue Act).

<sup>30</sup> *Greene*, 330 F. Supp. 1150.

common law of “Charitable Trusts” which prohibited charitable status to trusts which engaged in political activity. The progression of history up until 1954 shows that there has always been some type of political activity prohibition even though it was not codified formally until 1954. The reason for this is that up until 1954 an organization that was involved in political activities was not deemed charitable and did not benefit the public.

#### B. 1954 Amendment and Beyond

The first official language prohibiting political activity was added to the Code by Congress in 1954.<sup>31</sup> In pertinent part the added language read as follows: “and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office.”<sup>32</sup> The amendment was added as part of a floor amendment by Senator Lyndon B. Johnson.<sup>33</sup> In the brief discussion on the Senate Floor, Johnson sought to extend the §501(c)(3) provisions to deny tax exemption not only to those who influenced legislation but also to those who intervened “in any political campaign on behalf of any candidate for any public office.”<sup>34</sup> Subsequently, the added language was adopted in full.<sup>35</sup>

Many argue that Johnson only proposed the additional language because he was upset with two non-church groups operating as non-profit organizations. These two tax exempt groups supported his opponent in running for the Senate in Texas.<sup>36</sup> This was Johnson’s attempt to strengthen his position in his run for re-election by terminating the groups’ exempt status.<sup>37</sup> The two groups were anti-communist groups that opposed Johnson, and they were in no way affiliated with any church or religious organization.<sup>38</sup> It is based on this fact that many argue that the “political activity prohibition” was never meant to apply to churches.<sup>39</sup>

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<sup>31</sup> 68A Stat. 163 (1954).

<sup>32</sup> *Id.*

<sup>33</sup> 100 CONG. REC. 9604 (1954).

<sup>34</sup> *Id.*

<sup>35</sup> 68A Stat. 163 (1954).

<sup>36</sup> *House Committee on Ways and Means*, May 14, 2002 (Statement of Colby M. May, Director, American Center for Law and Justice, Alexandria); See also Patrick L. O’Daniel, *ARTICLE: More Honored in the Breach: A Historical Perspective of the Permeable IRS Prohibition on Campaigning by Churches*, 42 B.C. L. Rev. 733 (2001).

<sup>37</sup> *Id.*

<sup>38</sup> *Id.*

<sup>39</sup> Smith, *Supra* note 11.

In 1987, Congress amended 501(c)(3) to prohibit political activity "in opposition to any candidate."<sup>40</sup> The rationale for adding this additional language was to prevent public funds from supporting political activity and to promote neutrality.<sup>41</sup> 501(c)(3) has not been amended since this time. However, the IRS issued proposed regulations in regards to the 1987 amendment in 1994.<sup>42</sup>

### III. WHAT TYPE OF POLITICAL ACTIVITY IS ALLOWED

#### A. In General

In 1967, the U.S. Court of Appeals for the Eight Circuit held that "activity which is not religious, charitable, scientific, literary or educational will not result in loss of deductibility or of exemption if that activity is only incidental and less than substantial."<sup>43</sup> Cases such as this allow a small amount of incidental non-charitable activity before an exempt status will be revoked. However, rulings such as this do not apply to the "no political activity" prohibition because such prohibition is absolute.<sup>44</sup> Thus, the question becomes what type of activity is prohibited if such prohibition is absolute.

The Internal Revenue Code does specify what constitutes political activities.<sup>45</sup> However, the Regulations provide that certain activities "constitute participation or intervention in a political campaign on behalf of or in opposition to a candidate."<sup>46</sup> These activities include but are not limited to "the publication or distribution of written or printed statements or the making of oral statements on behalf of or in opposition to such candidate."<sup>47</sup> A candidate for public office is defined as an individual who offers himself, or is proposed by others, as a candidate for an elective office, whether such office be national, state, or local.<sup>48</sup> From the language of the regulation and the code, political activities are not banned in total; it is only when there is an

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<sup>40</sup> Tax Reform Act of 1986, Pub. L. No. 99-514, 100 Stat. 2085; see also H.R. Rep. No. 100-391, at 1621, 1625 (1987), reprinted in 1987 U.S.C.C.A.N. 2313-1, 2313-1201, 2313-1205.

<sup>41</sup> *Id.*

<sup>42</sup> DARRYLL K. JONES ET. AL, *Supra* note 3.

<sup>43</sup> *St. Louis Union Trust Co. v. U.S.*, 374 F.2d 427 (8<sup>th</sup> Cir. 1967)(factually this case dealt with the exempt status of trust whose donations supported a local bar association which was not involved in political activities).

<sup>44</sup> *United States v. Dykema*, 666 F.2d 1096, 1101 (7<sup>th</sup> Cir. 1981)(the Seventh Circuit stated: "It should be noted that exemption is lost . . . by participation in any political campaign on behalf of any candidate for public office. It need not from a substantial part of the organization's activities." This unlike the lobbying restrictions found in 501(c)(3) which allows an insubstantial amount of lobbying.)

<sup>45</sup> *Id.*

<sup>46</sup> 26 U.S.C. § 501(C)(3).

<sup>47</sup> Treas. Reg. § 1.501(c)(3)-1(c)(3)(iii).

<sup>48</sup> *Id.*

activity that shows bias for or against a candidate that the organization violates the “political activity prohibition” of 501(c)(3).<sup>49</sup> Thus, an organization must remain neutral.<sup>50</sup>

The IRS has taken the position that such political activities must be strictly neutral in nature to receive tax exempt status.<sup>51</sup> For example, in Association of the Bar of New York City, the New York City Bar Association produced a publication that was released to the general public which ranked judicial nominees for New York at the federal, state and local level.<sup>52</sup> The publication rated the candidates as not approved, approved, or approved as highly qualified.<sup>53</sup> The court held that these activities favored one judicial nominee over another.<sup>54</sup> Thus, the activity was considered impermissible under 501(c)(3).<sup>55</sup>

An illustration of this lack of neutrality was present in the 10<sup>th</sup> Circuit Court of Appeals case of Christian Echoes Nat'l Ministry v. United States.<sup>56</sup> In Christian Echoes, a religious organization that used the radio and publications to influence its followers published many statements and made numerous broadcasts that attacked candidates it thought were too liberal.<sup>57</sup> The organization went so far as to urge its listeners not to vote for John F. Kennedy but instead to elect individuals such as Strom Thurmond.<sup>58</sup> The court viewed this as impermissible political activity and upheld the government’s revocation of their tax exempt status.<sup>59</sup>

The IRS has issued a number of Revenue Rulings that describe types of political activities that are permissible. For example, a non-profit radio station that provided equal airtime and access to all legally qualified candidates for public office was not viewed as offering support “on or behalf of a political candidate.”<sup>60</sup> Also, the IRS has provided that an organization that is exempt under 501(c)(3) may distribute to the public a compilation of voter records of all

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<sup>49</sup> See The Association of the Bar of the City of New York v. Comm., 858 F. 2d 876 ( 2<sup>nd</sup> Cir. 1988) (holding that a New York Bar Association publication which rates candidates based on non-objective data should be denied exempt status because this activity violates the political activity prohibition.)

<sup>50</sup> Id.

<sup>51</sup> Id. See also Fuliani v. League of Women’s Voter Educ. Fund, 882 F. 2d 621 (2<sup>nd</sup> Cir. 1989) (holding that political activities must be strictly non-partisan in nature).

<sup>52</sup> Id. at 877.

<sup>53</sup> Id.

<sup>54</sup> Id. at 880.

<sup>55</sup> Id. at 881.

<sup>56</sup> Christian Echoes Nat'l Ministry v. United States, 470 F.2d 849 (10<sup>th</sup> Cir. 1972).

<sup>57</sup> Id. at 856.

<sup>58</sup> Id.

<sup>59</sup> Id. The organizations tax exempt status was also revoked for participating in substantial lobbying activities which also violated 501(c)(3).

<sup>60</sup> Rev. Rul 74-574, 1974-2 C.B. 160 (1974).

members of Congress on major legislative issues as long the publication does not contain an editorial opinion and its content or structure do not imply approval or disapproval of any member or their voting records.<sup>61</sup> Further, an organization exempt under 501(c)(3) may send a questionnaire to candidates for public office and may publish the comments and distribute them to the public as long as such questions proposed are non-biased in nature.<sup>62</sup> Further, tax exempt status will not be denied when an organization exempt under 501(c)(3) holds a public forum in which all candidates in a particular election are invited to speak on non-biased election topics.<sup>63</sup> The foregoing discussion is not meant to be exhaustive but is only an illustration of certain political activities that are permissible. The proper conclusion to this matter is that the Service approaches these issues on a case-by-case basis under a highly factual inquiry and looks to see if the organization is supporting a candidate or remaining neutral.<sup>64</sup>

### B. Code Words and Other Language

The IRS has taken the position that certain “coded language” violates the “political activity prohibition.”<sup>65</sup> The IRS has explained that certain words can have the connotation of supporting or opposing a political candidate without actually naming the political candidates.<sup>66</sup> According to the IRS,

the concern is that an §501(c)(3) organization may support or oppose a particular candidate in a political campaign without specifically naming the candidate by using code words to substitute for the candidate's name in its messages, such as ‘conservative,’ ‘liberal,’ ‘pro-life,’ ‘pro-choice,’ ‘anti-choice,’ ‘Republican,’ ‘Democrat,’ etc., coupled with a discussion of the candidacy or the election.<sup>67</sup> When this occurs, it is quite evident what is happening -- an intervention is taking place.<sup>68</sup>

The issue really has become one of intent. According to the IRS, in order to violate the political campaign prohibition, an advocacy communication “should contain some relatively clear

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<sup>61</sup> Rev. Rul 78-248, 1978-1 C.B. 154 (1978).

<sup>62</sup> *Id.*

<sup>63</sup> Rev. Rul. 86-95, 1986-2 C.B. 73 (1986).

<sup>64</sup> See Rev Rul 80-282, 1980-2 C.B. 178 (1980) (finding that all inquiries to into whether an impermissible political activity is present is a highly factual inquiry that must ultimately include that the activity in non-biased) See also Rev. Rul. 2007-41, 2007-25 I.R.B. 1421 (2007) (where service analyzed 21 different factual issues ranging from voter education booths at local fairs to churches that use their internet website to support one of their parishioners for public office).

<sup>65</sup> See Colby May testimony regarding TAM 9117001 *supra* note 36.

<sup>66</sup> TAM 9117001(1990)( For example if a tax exempt organization under 501(c)(3) makes public comments regarding support for the conservative candidate then this could be viewed as violating the political activity prohibition.)

<sup>67</sup> *Election Year Issues* (2002 CETIP) at 345.

<sup>68</sup> *Id.* at 345, As for intervention, the IRS is referring to an intervention in the political campaign on or behalf of a candidate.

directive that enables the recipient to know the organization's position on a specific candidate or slate of candidates.”<sup>69</sup> This leaves the IRS to judge the intent behind the language or coded words.<sup>70</sup> Most opponents of the political activity prohibition have concerns that this gives the IRS too much discretion as to what constitutes impermissible activity.<sup>71</sup> This intent based discretionary judgment on the part of the IRS provides the basis for which most proponents of bills such as H.R. 2275 feel that the “political activity prohibition” should be revoked.<sup>72</sup>

#### IV. PENALTIES FOR VIOLATING THE POLITICAL ACTIVITY PROHIBITION

##### A. 4955 Excise Taxes

In 1987, Congress enacted §4955 of the Internal Revenue Code as a way to penalize § 501(c)(3) organizations which made political expenditures that violated the “political activity prohibition.”<sup>73</sup> The provision was passed in order to provide an additional penalty in addition to that of revocation,<sup>74</sup> since there were some situations in which revocation would not be a sufficient penalty alone.<sup>75</sup> Also, the excise tax was meant as an alternative to revocation in the limited situation where the expenditure of tax exempt dollars was unintentional and where the amount of the activity was unsubstantial.<sup>76</sup> Thus, the passage of §4955 was meant to strengthen and provide a deterrence factor for violations of the “no political activity” rule.<sup>77</sup>

According to §4955(a)(1) there is an initial tax on the organization equal to 10% of each political expenditure.<sup>78</sup> This tax is to be paid by the organization.<sup>79</sup> If the expenditure as

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<sup>69</sup> Id. at 346.

<sup>70</sup> Id. at 346.

<sup>71</sup> May testimony, *Supra* note 36.

<sup>72</sup> Id.

<sup>73</sup> 26 U.S.C. §4955(d)(1) (2006)(The term “political expenditure” is defined in §4955(d)(1) as “any amount paid or incurred by a section 501(c)(3) organization in any participation in, or intervention in (including the publication or distribution of statements), any political campaign on behalf of (or in opposition to) any candidate for public office,”).

<sup>74</sup> H.R. Rep. No. 100-391, 100th Cong., 1st Sess. 1623-1624 (1987).

<sup>75</sup> Id. This situation would arise when the organization used all its contributions and revenue for improper purposes.

<sup>76</sup> Id.

<sup>77</sup> Id.

<sup>78</sup> 26 U.S.C. § 4955(a)(1).

<sup>79</sup> Id.

described in §4955(a)(1) is not corrected within the taxable year, then a tax equal to 100% of the amount of the expenditure is imposed on the organization.<sup>80</sup>

Section 4955 also provides a penalty for managers<sup>81</sup> who agree to make the political expenditure.<sup>82</sup> The tax is equal to 2½ percent of the amount of the expenditure.<sup>83</sup> However, the tax will not be imposed unless the manager knows that the expenditure is a political expenditure and it is willful and without good cause.<sup>84</sup> Any organization manager that will not agree to the correction of the political expenditure will be taxed an additional amount equal to 50% of the expenditure.<sup>85</sup> Under § 4955(c), if more than one manager is liable with respect to §4955(a)(2) or (b)(2), all managers are jointly and severally liable.<sup>86</sup> Furthermore, IRC 4955(c) provides that for "any one political expenditure," the tax under §4955(a)(2) is capped at \$5,000 and the tax under (b)(2) is capped at \$10,000.<sup>87</sup>

### B. Flagrant Expenditures

The IRS may seek to have an injunction entered pursuant to §7409 of the Internal Revenue Code to enjoin the flagrant political expenditures of §501(c)(3) organizations.<sup>88</sup> An injunction will prohibit the organization from making further political expenditures and will provide other such relief as may be appropriate to protect the assets of the organization so to ensure that they will be used for charitable purposes.<sup>89</sup> In order for a court to grant an injunction, the IRS must notify the organization that it will seek an injunction if the prohibited activity does not cease, the Commissioner of the IRS has personally determined that the organization has flagrantly violated the political campaign activity prohibition, and that injunctive relief is appropriate to prevent further political expenditures.<sup>90</sup> If the IRS does not meet these three requirements, then the injunction will not be granted.<sup>91</sup>

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<sup>80</sup> 26 U.S.C. 4955(b)(1).

<sup>81</sup> 26 U.S.C §4955(f)(2) (stating that an "organization manager" is any officer, director, or trustee of the organization (or individual having similar powers or responsibilities), or any employee of the organization having power or authority with respect to the expenditure. Per Treas. Reg. 53.4955-1(b)(2)(i), in order for a manager to be subject to the tax under IRC 4955(a)(2), the manager must either be authorized to approve, or to exercise discretion in recommending approval of, the making of the expenditure by the organization, or be a member of a group (such as the organization's governing body) which is so authorized. *See also Election Year Issues* (2002 CETIP) at 358-359 for a detailed discussion of managers.

<sup>82</sup> 26 U.S.C. §4955(a)(2).

<sup>83</sup> *Id.*

<sup>84</sup> *Id.*

<sup>85</sup> 26 U.S.C. §4955(b)(2)

<sup>86</sup> 26 U.S.C. §4955(c)(1)

<sup>87</sup> 26 U.S.C. §4955(c)(2).

<sup>88</sup> 26 U.S.C. §7409.

<sup>89</sup> 26 U.S.C. §7409(a)(1).

<sup>90</sup> 26 U.S.C. §7409(a)(2).

Under §6852 of the Internal Revenue Code, the IRS can under certain circumstances consider the organization's tax year closed and may accelerate any taxes due under §4955.<sup>92</sup> This provision only applies when the organization's expenditures constitute a flagrant violation of the prohibition against making political expenditures.<sup>93</sup> When this flagrant violation occurs, the IRS will immediately determine the tax owed which shall be due and payable immediately.

### C. Revocation

It was not until a U.S. Court of Appeals decision from the District of Columbia in 2000 that the "political activity prohibition" was sought to be amended by local religious groups.<sup>94</sup> The decision by the U.S. Court of Appeals on the political activity prohibition sparked much controversy because it marked the first time that a church's tax exempt status was terminated for violating the political activity prohibition.<sup>95</sup> This decision led Walter Jones to propose an amendment to the "political activity prohibition."<sup>96</sup>

Branch Ministries, Inc. operated a church in Binghamton, New York.<sup>97</sup> Days before the 1992 presidential election, the church took out a full page add in USA Today and the Washington Times.<sup>98</sup> Each advertisement bore the headline "Christians Beware," and the adds opposed Governor Clinton for his stand on abortion, homosexuality, and distribution of condoms in the public schools.<sup>99</sup> The ads also sought donations from the public and stated that any contributions to the church would be tax-deductible.<sup>100</sup> As a result, the IRS began a church tax inquiry based on the belief that church had participated in impermissible political activities under 501(c)(3).<sup>101</sup> After a few meetings between the parties, the IRS revoked the church's tax exempt status.<sup>102</sup>

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<sup>91</sup> Id.

<sup>92</sup> 26 U.S.C. §6852.

<sup>93</sup> 26 U.S.C. §6852(a)(1)(B).

<sup>94</sup> Branch Ministries v. Rossotti, 341 F.3d 166 (D.C. CIR. 2000).

<sup>95</sup> Id. at 144; See Christian Echoes, 470 F.2d 849 (where a religious organization had its tax exempt status revoked for participating in campaign activities but Christian Echoes was not a church.)

<sup>96</sup> Id. *See also* Congressman Walter Jones Testimony, *Supra* note 12.

<sup>97</sup> Id.

<sup>98</sup> Id. at 140.

<sup>99</sup> Id.

<sup>100</sup> Id.

<sup>101</sup> Id.

<sup>102</sup> Id.

The church filed suit in District Court alleging that the IRS had no authority to revoke their tax exempt status.<sup>103</sup> The District Court then granted the IRS' Motion for Summary Judgment.<sup>104</sup> As a result, the church appealed the case to the District of Columbia Court of Appeals.<sup>105</sup>

In its analysis, the Court reasoned that the IRS had the authority to revoke the tax exempt status of a church pursuant to the requirements under 501(c)(3).<sup>106</sup> This authority is based on the power granted to the IRS in §7611 of the Church Audit Procedures Act.<sup>107</sup> The Court reasoned that the IRS has the authority to grant exempt status and under the Church Audit Procedures Act it has the power to revoke the exemption.<sup>108</sup> Further, the Court held that the activity was of the type that was prohibited by 501(c)(3).<sup>109</sup> Thus, the revocation of the tax exempt status of the church was ruled to be valid.<sup>110</sup>

Clearly, the actions of the church indicate the type of egregious conduct that "political activity prohibition" seeks to prohibit. This court decision marked the first revocation of exempt status for a church for violating the political activity prohibition,<sup>111</sup> due to the blatant violation of the prohibition against campaign activities.<sup>112</sup> However, it seems that unless there is a *blatant* violation, the exempt status is not likely to be revoked.

#### D. Enforcement

Many who support the revoking of the "political activity prohibition" through a bill such as H.R. 2275 do so because of the potential for harsh penalties.<sup>113</sup> There is a great fear, in light of the Branch Ministries case, that churches could lose their exempt status<sup>114</sup> if, for example, a pastor or minister made certain statements during a church service which have both a religious

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<sup>103</sup> Id.

<sup>104</sup> Id. at 141.

<sup>105</sup> Id.

<sup>106</sup> Id. at 141 (the church tried to argue that the IRS could not revoke the status of a church because only a religious organization and not a church was listed in 501(c)(3).)

<sup>107</sup> Id.

<sup>108</sup> Id.

<sup>109</sup> Id.

<sup>110</sup> Id.

<sup>111</sup> DARRYLL K. JONES ET. AL, *Supra* note 3.

<sup>112</sup> Id.

<sup>113</sup> *House Committee on Ways and Means*, May 14, 2002 (Statement of the Hon. Walter B. Jones, a Representative in Congress from the State of North Carolina).

<sup>114</sup> Id.

connotation and which at the same time comment on a political candidate.<sup>115</sup> However, this position is not supported by the current statistics of IRS examinations.<sup>116</sup>

In 2004 and 2006 the IRS published results of its investigations of potential noncompliance by §501(c)(3) organizations that were suspected of participating in political campaign activities.<sup>117</sup> The investigations were part of a project called the “Political Activities Compliance Initiative” implemented by the IRS.<sup>118</sup> The IRS compiled results for both the 2004 and 2006 elections for which no church lost its tax exempt status.<sup>119</sup>

In 2004, the IRS received 166 referrals alleging campaign intervention by §501(c)(3) organizations which resulted in 110 of the organizations being selected for examination.<sup>120</sup> Of those, only 47 churches were selected for examination.<sup>121</sup> According to the 2004 Political Activities Compliance Initiative Final Report, only 19 allegations were made and investigated in 2004 regarding church officials making statements endorsing a candidate and only 12 were determined to be valid.<sup>122</sup> Other activities by churches investigated included endorsing or opposing candidates on websites, disseminating voter guides or candidate ratings, placing signs on property in favor of or opposition of a candidate, making cash contributions to candidates and showing preferential treatment by allowing some candidates to speak and not others.<sup>123</sup> In regard to the 47 churches, after examination, the IRS did not propose a revocation or revoke any of the churches’ tax exempt status nor penalize any of the churches.<sup>124</sup> The IRS did however find prohibited political activity in 42 of the churches but only issued a written advisory opinion to those churches.<sup>125</sup>

In 2006, the IRS selected 100 §501(c)(3) organizations for examination of which only 44 were churches.<sup>126</sup> Only 13 of the churches were investigated for church officials making

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<sup>115</sup> Id.

<sup>116</sup> 2004 Internal Revenue Service Political Activities Compliance Initiative Final Report Project 302; 2006 Internal Revenue Service Political Activities Compliance Initiative Executive Summary.

<sup>117</sup> Id.

<sup>118</sup> Id.

<sup>119</sup> Id.

<sup>120</sup> 2004 Internal Revenue Service Political Activities Compliance Initiative Final Report Project 302.

<sup>121</sup> Id.

<sup>122</sup> Id.

<sup>123</sup> Id.

<sup>124</sup> Id.

<sup>125</sup> Id.

<sup>126</sup> 2006 Internal Revenue Service Political Activities Compliance Initiative Final Report.

statements during the church services endorsing a candidate.<sup>127</sup> Again, no church had its exempt status revoked nor was there even a proposal to revoke the status.<sup>128</sup> In concluding their investigations, the IRS only found four churches to be in violation of the political activity prohibition.<sup>129</sup> Again, no penalties were levied and only written advisory opinions were issued.<sup>130</sup>

## V. HR 2275

HR 2275 as proposed seeks to alleviate the concerns of churches across America.<sup>131</sup> The bill as proposed by Congressman Jones will seek to amend the current language of §501(c)(3).<sup>132</sup> In particular, the amendment would strike the following language from 501(c)(3): “and which does participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.” As stated in the title of the bill, the amendment would do away with the political activity prohibition first added to the code in 1954.<sup>133</sup>

Congressman Jones’ concern is that a minister would not be able to speak on political issues during a church service, which would be a hindrance to his freedom of speech.<sup>134</sup> According to Jones, there may be moral issues that a minister feels compelled to speak of which would also contain references to political candidates.<sup>135</sup> However, the minister could not speak on the issue for fear of placing his church’s exempt status in jeopardy.<sup>136</sup> Thus, Jones seems to be proposing the Bill so that pastors and churches will be able to speak on religious and political issues in the same breath without losing the tax exempt status.<sup>137</sup>

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<sup>127</sup> Id.

<sup>128</sup> Id.

<sup>129</sup> Id.

<sup>130</sup> Id.

<sup>131</sup> H.R. 2275, 110<sup>th</sup> Cong. (2007).

<sup>132</sup> Id.

<sup>133</sup> Id. The title of the Bill says it all: “To restore the Free Speech and First Amendment Rights of churches and exempt organizations by repealing the 1954 Johnson Amendment”

<sup>134</sup> *House Committee on Ways and Means*, May 14, 2002 (Statement of the Hon. Walter B. Jones, a Representative in Congress from the State of North Carolina).

<sup>135</sup> Id. (Jones testimony before Ways and Means refers to a priest bringing a sermon on abortion felt compelled to state that George Bush was pro-life and Al Gore was pro-choice but did not because of the fear of losing his tax exempt status.)

<sup>136</sup> Id.

<sup>137</sup> Id.

The language of HR 2275 will have a much broader effect than Jones may contemplate. The Bill will do away with the “political activity prohibition” altogether. This bill would allow churches to freely participate in political campaigns.<sup>138</sup> Further, the language of the Bill does not mention that the amendment will only apply to churches and therefore, it would apply to all §501(c)(3) organizations. Thus, all §501(c)(3) organizations would be allowed to participate in political campaigns without penalty.<sup>139</sup>

## VI. TAX EFFECT OF ABOLISHING THE “POLITICAL ACTIVITY PROHIBITION”

### A. Subsidy

Churches have historically received tax exempt status because their charitable activities have been seen as type of government subsidy.<sup>140</sup> In Bob Jones University v. U.S., the Supreme Court stated that,

The exemption from taxation of money or property devoted to charitable and other purposes is based upon the theory that the Government is compensated for the loss of revenue by its relief from financial burdens which would otherwise have to be met by appropriations from other public funds, and by the benefits resulting from the promotion of the general welfare.<sup>141</sup>

Further, in Regan v. Taxation With Representation, the Supreme Court stated that “Both tax exemptions and tax deductibility are a form of subsidy that is administered through the tax system. A tax exemption has much the same effect as a cash grant to the organization of the amount of tax it would have to pay on its income.”<sup>142</sup> Thus, in essence the government is entering into a relationship with a church and is offering an exemption in return for the church performing a charitable function that would otherwise have to be provided by the government.<sup>143</sup>

The concern is that if HR 2275 is passed and the “political activity prohibition” is abolished, then a church would be allowed to participate in political activity with the help of the government. If this were to happen, the government would no longer be subsidizing a charitable

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<sup>138</sup> Wallbuilders, *Houses of Worship Free Speech Restoration Act*, <http://wallBuilders.com/LIBIssuesArticles.asp?id=102>.

<sup>139</sup> *House Committee on Ways and Means*, May 14, 2002 (Statement of the Hon. Walter B. Jones, a Representative in Congress from the State of North Carolina)(Jones justification seems to be that the IRS targets some groups and not others. According to Jones there are too many 501(c)(3) organizations for the IRS to regulate and this would in a sense level the playing field.)

<sup>140</sup> Bob Jones University v. U.S., 461 U.S. 574 (1983).

<sup>141</sup> *Id.* at 590 (This principle is known as the public benefit theory or the subsidation model); See Simon *Supra* note 13; See also David M. Anderson, *Comment: Political Silence at Church: The Empty Threat of Removing Tax-Exempt Status for Insubstantial Attempts To Influence Legislation*, 2006 B.Y.U. L. Rev. 115 (2006).

<sup>142</sup> Regan v. Taxation with Representation, 461 U.S. 540, 544 (1983).

<sup>143</sup> *Id.*

venture but would rather be subsidizing political activity. The government would in essence be giving cash grants to churches in order to allow them to support candidates for political office. This violates the very rules of charitable trust law and the political benefit theory in that a charitable organization whose purpose is of a political nature is not a charity.<sup>144</sup>

In viewing the revocation of the “political activity prohibition” and the passing of a bill such as H.R. 2275 under this subsidy model, churches could now funnel large amounts of money into campaigns or use their facilities to support candidates while at the same time receiving exempt status. Not only could churches funnel large amounts of money into political campaigns but any §501(c)(3) organization could use government subsidies to fund political campaigns. This type of subsidy is what most opponents of revoking the “political activity prohibition” and bills such as HR 2275 disagree with. Most opponents of HR 2275 do not want to see the government subsidizing political campaigns. Thus, it is unlikely that a bill such as HR 2275 in its current form will pass.

### B. Substantive Horizontal Equity

Substantive Horizontal Equity is a tax principle which states that similarly situated taxpayers should be taxed the same.<sup>145</sup> The tax fairness principle of substantive horizontal equity is violated when similarly situated taxpayers are treated differently in regards to the same economic activity.<sup>146</sup> Further, the violation occurs when there is no tax policy reason for the differential treatment.<sup>147</sup>

The revocation of the “political activity prohibition” through HR 2275 violates the principle of substantive horizontal equity. HR 2275 would allow taxpayers to fund political speech through a §501(c)(3) organization and receive a deduction while a similarly situated taxpayer who chooses to fund political speech through a non-charitable organization would receive no deduction. This situation would provide a tax benefit for one taxpayer while disallowing the benefit to another taxpayer without any policy reason. Further, such an inequity would then favor political speech through §501(c)(3) organizations versus non- §501(c)(3) organizations and would cause disparate economic treatment for the taxpayers.

For example, taxpayer A and taxpayer B are both in the 33% income bracket and each wants to contribute to political speech. Taxpayer A and B both want to contribute \$1,000.00 to a political campaign. A will contribute the \$1,000.00 through his church which is a §501(c)(3) organization while B chooses to spend \$1,000.00 in support of a candidate through a non-§501(c)(3) organization. A will be able to take a deduction for the \$1,000.00 contribution while B will not. As a result, B’s contribution will cost him more. Thus, this violates horizontal substantive equity as A and B are being treated differently in regards to the same economic activity without a justifiable policy reason for doing so.

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<sup>144</sup> *Supra* note 17.

<sup>145</sup> *Supreme Court Jurisprudence of Tax Fairness*, 36 Seton Hall L. Review 421 (2006).

<sup>146</sup> *Id.* See also *PIOUS POLITICS: Political Speech Funded Through I.R.C. §501(C)(3) Organizations Under Tax Fairness Principles*, Richard J. Wood, 39 Ariz. St. L.J. 209 (2007).

<sup>147</sup> *Id.*

Substantive horizontal equity is violated by the revocation of the “political activity prohibition” through HR 2275 because it will treat similarly situated taxpayers differently. One taxpayer will receive a benefit for contributing to a political organization while the other will not. In essence, one taxpayer will be allowed to purchase political speech at a lesser price solely because of the tax deduction. Thus, since there is no justifiable policy reason for allowing such disparate treatment, the revocation of the “political activity prohibition” through HR 2275 violates the principle of substantive horizontal equity.

### C. Disparate Tax Treatment for Organizations

A similar substantive horizontal equity argument can be made by organizations that receive contributions for political campaign matters.<sup>148</sup> Political organizations are normally exempt from taxes under §527.<sup>149</sup> However, that does not mean they do not receive disparate treatment. The reason for this is that only the taxpayers contributing to a §501(c)(3) organization will receive a tax deduction via §170 of the Internal Revenue Code while the other taxpayers not contributing to a §501(c)(3) organization will not receive a deduction.<sup>150</sup>

The practical effect of the disparate treatment among the taxpayers making contributions is that the organizations will be affected. It is likely that the taxpayer who knows he will receive a deduction will make a contribution to the organization while another taxpayer may forgo making a contribution because he will not receive a deduction. Again, this would be treating similarly situated taxpayers differently as the §501(c)(3) organization will receive more income from tax deductible contributions than will the non §501(c)(3) organizations. Even if a taxpayer makes a contribution to a non §501(c)(3) organization, the §501(c)(3) organization will still likely be favored because the taxpayer contributing to the §501(c)(3) organization will be able to give a larger contribution because of the added value of a deduction under §170.<sup>151</sup> Thus, the §501(c)(3) organization will still receive more revenue.

### D. Conclusion

The tax effect of the abolishment of the “political activity prohibition” through a bill such as HR 2275 would be substantial. First, the passage would act as government subsidy of political speech using taxpayers’ dollars. Also, the passage would treat similarly situated taxpayers differently by violating the principles of substantive horizontal equity. Further, it would cause disparate treatment among the organizations and taxpayers. The key issue then becomes whether there is a justification for abolishing of the “political activity prohibition” through HR 2275 in light of the tax consequences that it will cause.

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<sup>148</sup> *PIOUS POLITICS: Political Speech Funded Through I.R.C. §501(C)(3) Organizations Under Tax Fairness Principles*, Richard J. Wood, 39 Ariz. St. L.J. 209 (2007).

<sup>149</sup> 26 U.S.C. §527.

<sup>150</sup> 26 U.S.C. §§ 501(c)(3); 170

<sup>151</sup> *Id.*

## VII. FIRST AMENDMENT CLAIMS

Another question is whether the abolishment of the “political activity prohibition” through HR 2275 can be justified because of the perceived First Amendment protections it would afford.<sup>152</sup> A number of court cases have dealt with such First Amendment issues in light of exemptions under §501(c)(3) in regards to political activity. In all such cases, the courts have held generally that the prohibitions against political activity do not violate the First Amendment.

The prohibitions against participation in political campaigns by §501(c)(3) organizations are not in violation of the First Amendment of The United States Constitution.<sup>153</sup> In Christian Echoes, a ministry had its tax exempt status revoked for participating in prohibited campaign activities.<sup>154</sup> The ministry argued that prohibition in §501(c)(3) against participating in political campaign activities violated their First Amendment rights.<sup>155</sup> In particular the ministry claimed that their freedom of speech and free exercise rights had been violated.<sup>156</sup>

The court first addressed whether the restrictions in §501(c)(3) violated the ministry’s free exercise of religion. The Court reasoned that the “free exercise clause of the First Amendment is restrained only to the extent of denying tax exempt status and then only in keeping with an overwhelming and compelling Governmental interest: That of guarantying that the wall separating church and state remain high and firm.”<sup>157</sup> In balancing the church’s need for the tax exempt status versus the government’s need make sure that the church and state remain separated, the Court held that the government has a compelling interest that tax dollars are not used to subsidize political partisanship.<sup>158</sup> In balancing the two interests, the court held that the free exercise clause was not violated because whether a church lost its exempt status did not compare with the government’s compelling need to make sure that government was not subsidizing political campaign activities through churches and related religious organizations.<sup>159</sup>

The Court then addressed the issue of whether the ministry’s free speech rights under the first amendment were violated by application of §501(c)(3).<sup>160</sup> The court reasoned that that a tax exemption under §501(c)(3) was a privilege, and a matter of grace rather than right.<sup>161</sup> In holding

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<sup>152</sup> May testimony, *Supra* note 36.

<sup>153</sup> Christian Echoes Nat’l Ministry v. United States, 470 F.2d 849 (U.S. Ct. Appeals 10<sup>th</sup> Cir. 1972).

<sup>154</sup> *Id.* at 857.

<sup>155</sup> *Id.*

<sup>156</sup> *Id.*

<sup>157</sup> *Id.*

<sup>158</sup> *Id.*

<sup>159</sup> *Id.*

<sup>160</sup> *Id.*

<sup>161</sup> *Id.*

that the free speech rights were not violated, the court likened the ministry's claims to cases involving the Hatch Act.<sup>162</sup> In those cases, when certain government employees were prohibited from being involved in partisan politics, the employees claimed that their First Amendment rights were violated.<sup>163</sup> The courts in those cases stated that the employees could choose to work for the government under the conditions or not.<sup>164</sup> If they chose to work for the government, then they would have to comply with the rules of doing so.<sup>165</sup> The court paralleled this with §501(c)(3) organizations and stated that if an organization wanted the benefits of the exemptions then they would have to comply with the restrictions.<sup>166</sup> Thus, the tax exemption is not a guaranteed right but it is privilege that the ministry could forgo if they chose.<sup>167</sup> In concluding, the court stated, “

The Congressional purposes evidenced by the 1934 and 1954 amendments are clearly constitutionally justified in keeping with the separation and neutrality principles particularly applicable in this case and, more succinctly, the principle that government shall not subsidize, directly or indirectly, those organizations whose substantial activities are directed toward the accomplishment of legislative goals or the election or defeat of particular candidates.<sup>168</sup>

Subsequently, the United States Supreme Court faced a similar issue in 1983 and held that the prohibitions in §501(c)(3) to lobbying restrictions did not violate the First Amendment.<sup>169</sup> In Regan, an organization applied for tax exempt status under §501(c)(3) and the IRS denied the application for tax exempt status because the organization was involved in substantial lobbying activities.<sup>170</sup> The organization challenged the IRS' ruling on a number of grounds including that the government had violated its First Amendment rights.<sup>171</sup>

The Court in its analysis stated that deductions and exemptions for §501(c)(3) organizations are a type of government subsidy and there are certain activities in which the government chooses not to subsidize.<sup>172</sup> The Court stated:

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<sup>162</sup> Id.

<sup>163</sup> Id.

<sup>164</sup> Id.

<sup>165</sup> Id. (The court stated that if the organization wanted to “feed at the government troughs” then they would have to comply with the restrictions of doing so.)

<sup>166</sup> Id.

<sup>167</sup> Id.

<sup>168</sup> Id.

<sup>169</sup> Regan v. Taxation With Representation of Washington, 461 U.S. 540 (1983)(Although this case dealt with the lobbying restriction of 501(c)(3), the principles of the case were later used in Branch Ministries and are applicable to the “political activity prohibition” of 501(c)(3).

<sup>170</sup> Id at 541-542.

<sup>171</sup> Id.

<sup>172</sup> Id. at 544.

Both tax exemptions and tax deductibility are a form of subsidy that is administered through the tax system. A tax exemption has much the same effect as a cash grant to the organization of the amount of tax it would have to pay on its income. Deductible contributions are similar to cash grants of the amount of a portion of the individual's contributions. The system Congress has enacted provides this kind of subsidy to nonprofit civic welfare organizations generally, and an additional subsidy to those charitable organizations that do not engage in substantial lobbying. In short, Congress chose not to subsidize lobbying as extensively as it chose to subsidize other activities that nonprofit organizations undertake to promote the public welfare.<sup>173</sup>

Further, the Court stated that the organization was not being denied an exemption for its non-lobbying activity.<sup>174</sup> The Court went on to state that the Court had never held that Congress must grant the tax exemption in this area of law just because an organization wanted to exercise a constitutional right.<sup>175</sup> It is clear that the Court was holding firmly to the proposition that the government did not have to subsidize lobbying activity in light of a constitutional claim.<sup>176</sup> The Court ended its analysis that §501(c)(3) did not violate the first amendment by stating,

although government may not place obstacles in the path of a [person's] exercise of . . . freedom of [speech], it need not remove those not of its own creation. Although the organization does not have as much money as it wants, and thus cannot exercise its freedom of speech as much as it would like, the Constitution does not confer an entitlement to such funds as may be necessary to realize all the advantages of that freedom.<sup>177</sup>

In 2002 the U.S. Court of Appeals for the District of Columbia discussed the constitutionality of §501(c)(3) in regards to First Amendment rights in the Branch Ministries case.<sup>178</sup> In particular, the church claimed that its Free Exercise rights had been violated and that they could no longer freely worship.<sup>179</sup> Further, the church claimed that the loss of the exemption threatened their existence and violated the First Amendment.<sup>180</sup>

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<sup>173</sup> Id.

<sup>174</sup> Id. The concurrence by Justice Blackmun had a different view. The concurring justices stated that 501(c)(3) would be unconstitutional in regards to substantial lobbying activities if it were not for the fact that the organization could create a 501(c)(4) organization for all its lobbying activities.

<sup>175</sup> Id.

<sup>176</sup> Id. at 549. (The Court in Citing to Buckley v. Valeo, 424 U.S. 1 (1976) by stated "We have held in several contexts that a legislature's decision not to subsidize the exercise of a fundamental right does not infringe the right, and thus is not subject to strict scrutiny.

<sup>177</sup> Id.

<sup>178</sup> Branch Ministries v. Rossotti, 211 F. 3d 137 (D.C. Cir. U.S. Ct. App. ,2000) (For a discussion of the facts of the case see above analysis in this article on section on revocation.)

<sup>179</sup> Id. at 142.

<sup>180</sup> Id.

The court in its analysis stated that for the church to sustain its claim it must show that its free exercise rights had been substantially burdened.<sup>181</sup> The court reasoned that the church's position was that the withdrawal of a conditional privilege (a tax exemption) for the failure to meet the condition itself (being involved in prohibited political activities) constituted a substantial burden on their right to freely exercise their religion.<sup>182</sup> This would be true "only if the receipt of the privilege (in this case the tax exemption) is conditioned upon conduct proscribed by a religious faith, or ... denied ... because of conduct mandated by religious belief, thereby putting substantial pressure on an adherent to modify his behavior and to violate his beliefs."<sup>183</sup> However, this was not the case, as the court pointed out that the church did not state that a withdrawal from politics would violate its beliefs.<sup>184</sup> Rather, the sole effect of the "loss of the tax exemption was to decrease the amount of money available to the Church for its religious practices."<sup>185</sup> The Supreme Court has declared, however, that such a burden "is not constitutionally significant."<sup>186</sup> Thus, the court held that the church's Free Exercise rights were not violated because the government was not substantially burdening the right of the church to freely worship.<sup>187</sup>

The Court also held that the prohibition against involvement in political campaign activities did not violate the church's freedom of speech under the First Amendment.<sup>188</sup> The reason for this is that the language in §501(c)(3) is viewpoint neutral.<sup>189</sup> The political activity prohibition applies to all §501(c)(3) organizations equally; "they prohibit intervention in favor of all candidates for public office by all tax-exempt organizations, regardless of candidate, party, or viewpoint."<sup>190</sup> Thus, the court denied any free speech claims on behalf of the church.

According to the Court, the "political activity prohibition" in §501(c)(3) does not violate the constitutional rights of §501(c)(3) organizations. Any rights that are violated are minor compared to the compelling governmental interest in not subsidizing political activities through churches or related organizations. Organizations are not prohibited from worshiping as they wish by participating in political campaign activities. If they choose to participate, they will merely not be

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<sup>181</sup> Id. (In so stating the test to be applied the court stated that the "Government shall not substantially burden a person's exercise of religion in the absence of a compelling government interest that is furthered by the least restrictive means.")

<sup>182</sup> Id.

<sup>183</sup> Id.

<sup>184</sup> Id.

<sup>185</sup> Id.

<sup>186</sup> Id.

<sup>187</sup> Id. (The court also held that the church had alternate means by which to participate in politics by establishing a 501(c)(4) organization for that purpose.)

<sup>188</sup> Id. at 144.

<sup>189</sup> Id.

<sup>190</sup> Id.

afforded a tax exemption but they will not be prohibited from participation in the political activity.

## VII. IS THERE A NEED FOR THE REVOCATION OF THE “POLITICAL ACTIVITY PROHIBITION?”

### A. Administrative Costs and Abuses

In a 2001 study by the Hartford Institute for Religion Research, it was estimated that there were between three to four hundred thousand churches in America as of 2000.<sup>191</sup> During the 1999-2000 election cycle the Federal Election Commission reported that 4 billion dollars were spent on election campaigns.<sup>192</sup> This number increased to 10 billion dollars during the 2003-2004 election cycle.<sup>193</sup> In light of the large amount of expenditures and the ever-present complaints about §501(C)(3) organizations being part of the contributors, the IRS initiated a Political Activities Compliance Initiative (PACI). As part of the initiative the IRS investigated political activity by non-profit organizations.<sup>194</sup>

The IRS released its PACI report for 2004 in which it received 166 referrals and investigated 110 non-profit organizations.<sup>195</sup> Only 47 of the 110 entities were comprised of churches.<sup>196</sup> In 2006, 237 referrals were made and 100 of those were investigated. Only 44 of the 100 investigations were conducted on churches.<sup>197</sup> These numbers are staggering in light of the large number of churches in America compared to the number of alleged abuses that arise during elections.

This large number of abuses is what causes the most friction about passing an amendment to §501(c)(3) to revoke to “political activity prohibition” such as is contained in HR 2275. Many opponents of the revocation of the “political activity prohibition” as found in HR 2275 state that such a Bill would lead to rampant abuse in political campaign activity which would be contrary to the spirit of the Bipartisan Campaign Reform Act of 2002.<sup>198</sup> The proponents of the Bill take the

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<sup>191</sup> *A Report of Religion in the US Today*, Carl S. Dudley, Hartford Institute for Religious Research March 2001. See also [www.ChurchSolutionsMag.com/Articles/191cover](http://www.ChurchSolutionsMag.com/Articles/191cover), *Church Solutions 2001 Year in Review* (where ABC News estimated 300 to 400 thousand churches in America. )

<sup>192</sup> 2006 Internal Revenue Service Political Activities Compliance Initiative Final Report.

<sup>193</sup> *Id.*

<sup>194</sup> *Id.*

<sup>195</sup> *Id.*

<sup>196</sup> *Id.*

<sup>197</sup> *Id.*

<sup>198</sup> USCJ:Houses of Worship Free Speech Restoration Act Talking Points [www.uscj.org/Houses\\_of\\_Worship\\_Fr6794.html](http://www.uscj.org/Houses_of_Worship_Fr6794.html). See *House Committee on Ways and Means*, May 14, 2002 (Statement of American Jewish Congress ).

contrary position that the Bill is needed because of the rampant abuses that go unchecked by the IRS and because the IRS uses selective prosecution in enforcing the "political activity prohibition".<sup>199</sup> Thus, the proponents feel that "political activity prohibition" is not fairly administered.

The abuses noted by both those who support and those who oppose the revocation of the "political activity prohibition" are numerous. For example, during the 2000 election cycle the following are a few instances of campaign activity in churches as noted by Patrick L. O'Daniel in his 2001 article entitled *More Honored in the Breach: A Historical Perspective of the Permeable IRS Prohibition on Campaigning by Churches*<sup>200</sup> during the 2000 election cycle:

- Addressing the congregation at a Pittsburgh church, Al Gore criticized George Bush for saying he would appoint "strict constructionists" to the Supreme Court. Gore said that this term took him back to an era of "strictly constructionist meaning" in which, "some people were considered three-fifths of a human being."<sup>201</sup>
- Pastor Charles Betts, Sr. at the Morningstar Missionary Baptist Church in Queens, New York, introduced the First Lady, Hillary Rodham Clinton, who was running for the Senate, by saying, "I would like to introduce to you the next senator." He then stated, "I speak the word and the word is truth. After she goes to the Senate, she is going to come back to our communities and say 'Thank you.'" Another pastor at a Bronx church substituted her opponent's name, Representative Rick Lazio, for Satan in a service hymn during a visit by the First Lady.<sup>202</sup>
- Preaching at the Genoa Baptist Church in Ohio, the Reverend Jerry Falwell told the worshippers, "You vote for the Bush of your choice." He also warned that if Al Gore was elected, "Our country is going to pay a dear price." "We simply have to beat Gore," Falwell said.<sup>203</sup>
- At the Morris Brown AME Church, Al Gore told parishioners, "I have to appeal to you because you have the votes." He also stated, "I'm asking not only for your votes, but your enthusiasm and dedication, for your willingness to go the extra mile to get a very large turnout on Tuesday."<sup>204</sup>
- The Reverend Billy Graham gave what was described as a "near endorsement" to George Bush: "I don't endorse candidates. But I've come as close to it, I guess, now as any time in my life because I think it's extremely important. I've already voted. I'll let you guess who I voted for."<sup>205</sup>

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<sup>199</sup> May testimony, *Supra* note 36.

<sup>200</sup> Patrick L. O'Daniel, *More Honored in the Breach: A Historical Perspective of the Permeable IRS Prohibition on Campaigning by Churches*, 42 B.C. L. Rev. 733 (July 2001).

<sup>201</sup> *Id.*

<sup>202</sup> *Id.*

<sup>203</sup> *Id.*

<sup>204</sup> *Id.*

<sup>205</sup> *Id.*

- In Flint, Michigan, Al Gore attended the evening service at New Jerusalem Full Baptist Church where the speaker, Kenneth Edmonds, urged congregants to kneel at bedtime and pray: "The Lord is my shepherd, I shall not vote for George Bush."
- In Milwaukee, Wisconsin, the Reverend Joseph Noonan of Our Lady of the Rosary Roman Catholic Church inveighed against candidates who were not pro-life and instructed, "I'm not telling you who to vote for. I'm telling you who you may not vote for."<sup>206</sup>
- At Detroit's New Bethel Baptist Church, the Reverend Robert Smith, Jr. preached that, "if Bush is elected, then we're going to war."<sup>207</sup>
- During Sabbath services at University Synagogue in West Los Angeles, Rabbi Allen Freehling spoke of Noah's drunkenness and remarked that the same "obscene behavior can be said of a certain Republican presidential candidate."<sup>208</sup>
- In Detroit, Al Gore told a Sunday congregation, "I need you to lift me up so I can fight for you." He was introduced by the church's pastor, Bishop Charles H. Ellis III, who offered a prayer for Mr. Gore's success and told his congregation that the choice "seems to be a no-brainer to me--if it ain't broke, don't fix it."<sup>209</sup>
- The Christian Coalition implemented plans to distribute 70 million copies of its voter guide at churches on the Sunday before the election. Critics have claimed that the guides are "partisan campaign fliers" because of their presentation of the candidates' positions on various issues.<sup>210</sup>
- Victory Baptist Church and Second Baptist Church were the only two stops that the Democratic Vice-Presidential candidate, Senator Joe Lieberman, made in Las Vegas during a campaign stop. At both churches he urged the congregations to vote for the Gore-Lieberman ticket.<sup>211</sup>
- President Bill Clinton spoke from the pulpit in a Harlem church to a group of African-American religious leaders and urged them that if they want to "keep the economy going" then "you have to vote for Hillary and Al Gore and Joe Lieberman."<sup>212</sup>
- In Chicago, about 20 ministers boycotted the Chicago Sun-Times for its endorsement of George Bush for President. The ministers said they will now rely on their pulpits and other newspapers to keep their communities informed about the elections.<sup>213</sup>

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<sup>206</sup> Id.

<sup>207</sup> Id.

<sup>208</sup> Id.

<sup>209</sup> Id.

<sup>210</sup> Id.

<sup>211</sup> Id.

<sup>212</sup> Id.

<sup>213</sup> Id.

- In Miami, 23 ministers met in the Jordan Grove Baptist Church to coordinate efforts to get out the vote for Al Gore. They agreed to do radio ads, to coordinate vans to get people to the polls, and pledged to preach from the pulpit about voting. John Sales of First Baptist of Brownsville explained: "You don't have to need someone to tell you to vote. We've got to watch out for what's in the Bushes."<sup>214</sup>
- David Horton of Greater New Bethel Baptist complained that "there should have been more of an effort by the Gore campaign to make itself visible in the black churches." Sales agreed, noting that although Gore had spoken in African-American churches elsewhere, the Gore campaign had turned to Clinton to energize African-American leaders and go to black churches.<sup>215</sup>
- In Arkansas, Kathy Robinson, a Democratic activist, complained about a county clerk refusing to open the clerk's office for early voting on Sunday, explaining, "I had 17 Afro-American churches lined up to be bussed to the courthouse to vote on Sunday." She then added, "Now I am going to have to retract that. We are trying to get Gore elected."
- Explaining why Al Gore attended so many churches, his campaign manager, Donna Brazile explained, "More African-Americans gather in church than any place else."
- "The churches are key," remarked David Bositis, senior political analyst at the Joint Center for Political and Economic Studies, an African-American think tank. "It's an organizational nexus. You've got people who come there every week."

Thus, the 2000 election campaign was rampant with political activity violations.

The 2004 election cycle included a number of abuses of political campaign activity. Some examples are as follows although they are not meant to be exhaustive:

- All Saints Episcopal Church in Pasadena, California had a guest speaker who brought a message entitled "If Jesus Debated Senator Kerry and President Bush" in which the speaker criticized Bush throughout but never made a negative comment about Kerry.<sup>216</sup>
- Numerous Pastors urged their congregations to vote for John Kerry regardless of what the IRS might say.<sup>217</sup>
- In a church in Ft. Lauderdale, Florida, the pastor encouraged his congregation to vote for Senator Kerry while Kerry was present in the congregation.<sup>218</sup>
- In the first two weeks of June, 2004 election Bush staffers sought out 1600 churches in Pennsylvania to find out if they supported Bush<sup>219</sup>

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<sup>214</sup> Id.

<sup>215</sup> Id.

<sup>216</sup> Allan J. Samansky, *TAX CONSEQUENCES WHEN CHURCHES PARTICIPATE IN POLITICAL CAMPAIGNS*, 5 Geo. J.L. & Pub. Pol'y 145 (Winter 2007).

<sup>217</sup> Id.

<sup>218</sup> Id.

- President Bush also visited the Pope and reportedly complained to Cardinal Angelo Sodano, the Vatican Secretary of State, that “not all American bishops are with me.”<sup>220</sup>
- At Allen Temple AME church, the minister, Donald H. Jordan stated, “I’m not worried about the law; I’m asking you to support him,” after Senator Edwards had spoken.<sup>221</sup>
- At the Mt. Airy Church, Pastor Ernest C. Morris followed Sen. Kennedy to the pulpit and declared, “I can’t tell you who to vote for, but I can tell you what my mamma told me last week: ‘Stay out of the Bushes.’”<sup>222</sup>
- Jerry Falwell publicly supported Bush from his pulpit.<sup>223</sup>
- In July 2004, the Republican National Committee asked Roman Catholics who supported Bush to provide copies of their parish directories to the campaign.<sup>224</sup>
- In May, 2004, Bishop Michael Sheridan of the Colorado Springs diocese referred to the upcoming election in November and stated that Catholics who vote for candidates who stand for “abortion, illicit stem cell research or euthanasia” will “jeopardize their salvation.”<sup>225</sup>

Thus, there were also numerous abuses during the 2004 election.

In light of the sampling of abuses mentioned above, it is remarkable that the IRS has investigated less than 150 churches total during the 2004 and 2006 elections.<sup>226</sup> This is remarkable especially in light of the fact that there are three hundred to four hundred thousand churches in this country. The administrative costs to keep up with these violations would be immense. Although no official report or position has been issued by the IRS, the IRS alluded to the great undertaking that would face the Service in order to investigate all violations.<sup>227</sup>

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<sup>219</sup> Alan Cooperman, *Churchgoers Get Direction from Bush Campaign*, Wash. Post, July 1, 2004, at A6.

<sup>220</sup> Don Lattin, *Politics and the Church: Bush Woos Faithful with a Religious Fervor*, S.F. Chron., June 21, 2004, at A1.

<sup>221</sup> See Edward E. Plowman, *Pulpit Politics*, World Mag., Nov. 6, 2004.

<sup>222</sup> Id.

<sup>223</sup> Chris Kemmitt, *RFRA Churches and the IRS: Reconsidering the Legal Boundaries of Church Activity in the Political Sphere*, [www.law.harvard.edu/students/orgs/jol/vol43\\_1/kemmitt.pdf](http://www.law.harvard.edu/students/orgs/jol/vol43_1/kemmitt.pdf)

<sup>224</sup> Id.

<sup>225</sup> See Samansky, *Supra* note 214.

<sup>226</sup> Id.

<sup>227</sup> 2004 Internal Revenue Service Political Activities Compliance Initiative Final Report Project 302 and 2006 Internal Revenue Service Political Activities Compliance Initiative Final Report( stating reasons that IRS does not want to investigate churches including the sensitiveness of the area and the huge undertaking to investigate all violation.)

This problem will only continue to compound itself as religious leaders seek to influence national elections.<sup>228</sup> A CNN Special, “God’s Warriors,” that aired on December 23, 2007, documented numerous religious leaders who were involved in politics and supported candidates from the pulpit.<sup>229</sup> Further, the special documented the fervor in churches to be involved in political campaigns.<sup>230</sup> In fact, one traveling evangelist stated in an interview that his whole ministry was traveling from church to church encouraging congregations to vote for conservative candidates.<sup>231</sup> The documentary concluded that there is an enormous move in churches to become involved in politics.<sup>232</sup>

It is clear in the 2008 presidential election that churches will only become more involved in politics. The IRS will either have to use more money to investigate and enforce the “political activity prohibition” or it will have to enforce only going after the most egregious cases. It is this lack of enforcement by the IRS that leads many to argue that there should either be more funds and time dedicated to enforcing the “political activity prohibition” or a lessening to an abolition of the political activities doctrine to make treatment of churches more equitable.

#### B. Does the 501(c)(3) Revocation of Exempt Status Really Have Teeth?

Claims by many supporters of bills such as HR 2275 state that the revocation of the exempt status for a church is akin to the death penalty.<sup>233</sup> Many churches claim the threat of revocation would threaten their existence.<sup>234</sup> The reason for this is that donors would no longer contribute money knowing that they would not receive a tax deduction, which would lead to the church losing operating revenue.<sup>235</sup> The court in Branch Ministries stated that these concerns were overstated.<sup>236</sup> Because of the unique treatment of churches under the Internal Revenue Code, the effect of the revocation is more symbolic than substantial.<sup>237</sup>

There are many reasons that the Court took the position that the effect of the revocation would likely have little to no impact.<sup>238</sup> First, after a church has its exempt status revoked, it may

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<sup>228</sup> *God's Warriors* (CNN television broadcast December 23, 2007).

<sup>229</sup> *Id.* (Of the notables were John Hagee who encouraged his congregation to vote for candidates who supported the Nation of Israel.)

<sup>230</sup> *Id.*

<sup>231</sup> *Id.*

<sup>232</sup> *Id.*

<sup>233</sup> May testimony, *Supra* note 36.

<sup>234</sup> Branch Ministries v. Rossotti, 211 F. 3d 137, 142.

<sup>235</sup> *Id.*

<sup>236</sup> *Id.*

<sup>237</sup> *Id.*

<sup>238</sup> *Id.*

still hold itself out as a 501(c)(3) organization as long it does not participate in future political campaigns.<sup>239</sup> According to the position of the IRS taken at oral argument, all that would have been lost is the “advance assurance of deductibility by the donor in the event the donor is audited.”<sup>240</sup> Thus, the contributions will remain tax deductible as long as the taxpayer can show that the church is no longer involved in political campaign activities.<sup>241</sup>

Another concern by churches is that the revocation will make them liable for the payment of taxes.<sup>242</sup> However, according to Branch Ministries, the revocation does not necessarily make the church liable for the payment of taxes.<sup>243</sup> The IRS made it clear in its oral arguments that just because a church loses its tax exemption does not mean that church will be liable for the payment of taxes on all contributions.<sup>244</sup> Any donations that are bona fide, i.e. not linked to campaign activities, will be deductible. The rationalization by the court was that these donations were in essence gifts which are not included in the income of the recipient.<sup>245</sup> Further, the church can still reapply for a prospective determination of its tax exempt status and thus, regain advance assurance of the deductibility of contributions and its tax exempt status.<sup>246</sup> However, this ruling would be based on the church’s assurance that they would no longer be involved in campaign activities.<sup>247</sup>

#### C. 501(c)(4) Alternative

Many proponents of revoking the “political activity prohibition” through a bill such as HR 2275 state that without such bill, churches will have no alternate way of speaking about political issues involving candidates in church.<sup>248</sup> This issue has been addressed by the Supreme Court<sup>249</sup> and in Branch Ministries.<sup>250</sup> In discussing the issue, the court in Branch Ministries relying on Regan provided that a church could separately incorporate a 501(c)(4) organization to operate its

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<sup>239</sup> Id.

<sup>240</sup> Id.

<sup>241</sup> Id. at 143.

<sup>242</sup> Id.

<sup>243</sup> Id.

<sup>244</sup> Id.

<sup>245</sup> Id.

<sup>246</sup> Id.

<sup>247</sup> Id.

<sup>248</sup> May testimony, *Supra* note 36.

<sup>249</sup> Regan, 461 U.S. 540.

<sup>250</sup> Branch Ministries v. Rossotti, 211 F.3d 137, 143.

political activities.<sup>251</sup> Such organizations are exempt from tax but contributions are not tax deductible to the §501(c)(4).<sup>252</sup>

Unlike the Regan case which dealt with lobbying, §501(c)(4) organizations are prohibited from being involved in campaign activities like the §501(c)(3) organization.<sup>253</sup> However, unlike the §501(c)(3) organization, the §501(c)(4) organizations can set up a Political Activity Committee (PAC) that would be free to participate in political campaigns.<sup>254</sup> In setting up the PAC, the church must separately incorporate the §501(c)(4) organization and then set up the PAC as an arm of the §501(c)(4).<sup>255</sup> In all, the church must be careful to keep separate records and must be able to show that tax free contributions are not used for political activities.<sup>256</sup> Although this may seem like an extensive process and overly burdensome on the church, it will allow churches to participate in political campaigns with losing their tax exempt status.<sup>257</sup> The rationale is that churches are allowed to participate in political activities, but they are going to have to pay for those activities just as anyone else would engaging in similar activities.<sup>258</sup> If the church wants to participate in political activities and still remain tax exempt, then it must do so under the plan laid out by the courts.

## VIII. PROPOSAL

The “political activity prohibition” is proper because to allow a charity to be involved in political campaigns violates the very spirit of a charity. The government grants favorable status to a charity as a way of subsidizing the charity for work the government would otherwise have to perform. A passage of bill such as HR 2275 would give a blanket license for any §501(c)(3) organization to receive a government subsidy for participating in political campaign activity.

However, the law as it stands is very controversial in that it makes the IRS in some instances a type of “political speech police.”<sup>259</sup> This is very concerning to those who argue that the IRS is selectively enforcing the current prohibition of political activities under 501(c)(3).<sup>260</sup> This fact is

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<sup>251</sup> *Id.*

<sup>252</sup> *Id.*

<sup>253</sup> *Id.*

<sup>254</sup> *Id.*

<sup>255</sup> *Id.*

<sup>256</sup> *Id.*

<sup>257</sup> *Id.*

<sup>258</sup> Regan, 461 U.S. 540.

<sup>259</sup> May testimony, *Supra* note 36.

<sup>260</sup> *Id.*

even more concerning in that it seems that the IRS cannot proceed against as many organizations as it would like because of the high administrative costs involved.

The result is that the IRS has “hamstrung” itself. It has made a firm stance that there is to be no political activity on the behalf of a 501(c)(3) organization but it does not have to the resources to enforce every single violation. It would be much more feasible for the IRS to be able to enforce only egregious violations of the “political activity prohibition”. However, this is not possible under the language of §501(c)(3) and the current policy of the IRS.

A possible solution would be propose a “no substantial activities test” in relation to the “political activity prohibition.” The “no substantial activities test” is already present in 501(c)(3).<sup>261</sup> The language of the Code reads “no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation.”<sup>262</sup> It is this provision that allows 501(c)(3) organizations to participate in the lobbying process as long as the lobbying is not substantial.<sup>263</sup>

Courts have generally considered that if no more than 5% of the time and effort of the organization is devoted to lobbying then the lobbying is not substantial.<sup>264</sup> There are those that argue that the percentage test has been replaced by a facts and circumstances test balancing the organizations activities in relation to its objectives and circumstances in the context of the totality of the organization.<sup>265</sup> Even if the percentage test has become obsolete, it still is a good measure as to when lobbying activities have become substantial.

The same substantiality test could be used in relation to the “political activity prohibition.” This same test would allow churches in particular to be able to discuss religious issues involving candidates from the pulpit or during a church service without losing their exemption. As long as the churches were not using a substantial part of their resources for political campaign activities i.e. 5% then the church would not be in violation. Any church or organization that abuses this privilege like the church in Branch Ministries could have their exemption revoked.

This would seem to address the IRS’ concerns as stated in the PACI Executive Summary in 2006.<sup>266</sup> There the IRS admitted that the “political activity prohibition” raises issues freedom of speech and religious expression.<sup>267</sup> Also, the IRS admitted that there was no bright line test and

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<sup>261</sup> 26 U.S.C. §501(c)(3).

<sup>262</sup> *Id.*

<sup>263</sup> *Id.*

<sup>264</sup> Seasongood v. Comm., 227 F.2d 907 (6<sup>th</sup> Cir. 1955); See also World Family Corp. v. Comm. 81 T.C. 958(1983)(holding that lobbying activities that were less than 10% but greater than 5% were insubstantial.)

<sup>265</sup> Haswell v. U.S., 500 F. 2d 1133 (Ct. Cl. 1974)(rejecting the percentage test in favor of a balancing test using facts and circumstances); See also Kentucky Bar Foundation, Inc. v. Commissioner, 78 T.C. 971 (substantiality is determined by facts and circumstances).

<sup>266</sup> 2006 Internal Revenue Service Political Activities Compliance Initiative Final Report.

<sup>267</sup> *Id.*

alluded to the fact that a bright line test is needed to better handle the issue.<sup>268</sup> Further, when the IRS finds a violation it is often de minimis and does not warrant a revocation.<sup>269</sup> Thus, adding a provision that would allow the IRS a bright line test and some leeway—perhaps a five percent, rule—might provide the balance that is needed to resolve the issue.

## IX. CONCLUSION

The “political activity prohibition” should not be revoked as proposed in bills such as HR 2275. In proposing HR 2275, Walter Jones was attempting to give churches more freedom and liberty to speak on political issues inside churches. However, the revocation of the “political activity prohibition” as proposed in HR 2275 does more than just provide relief to churches; it allows any §501(c)(3) organization to participate in political campaign activities and thus, such a revocation should not be allowed. A pure revocation of the “political activity prohibition” would violate the concept of charities in general. An amendment to §501(c)(3) such as HR 2275 providing for a revocation of the “political activity prohibition” would in essence provide a government subsidy for political campaign activities through §501(c)(3) organizations. This type of subsidy has always been forbidden under the law regarding the tax exempt status of charities. Further, the revocation would not only act as a subsidy but it would provide disparate tax treatment for individual taxpayers and other organizations not recognized under §501(c)(3).

The main concern of the proponents of the revocation is that churches face harsh penalties for violating the “political activity prohibition”. The harsh penalties that seem to be present for violating the “political activity prohibition” are in reality not so harsh. Even though penalties and revocation are possible penalties it is unlikely that many organizations will ever be penalized. In fact, after recent studies for the years of 2004 and 2006, no church has lost its exempt status. Further, not one church ever had a penalty levied against for violating the “political activity prohibition” during that period.

Even though the penalties have not in practice been that harsh there is reason for concern regarding the present status of the “political activity prohibition.” There seems to be rampant abuse of the privilege while the IRS is only able to investigate a small number of incidents. The IRS has voiced this concern in recognizing that it is difficult to monitor this area of law when free speech issues are at stake and the IRS does not have the manpower to fairly administer the prohibition.

It is preferable that the current rule not be so restrictive in light of the difficulty in monitoring every violation of the “political activity prohibition.” One possible solution is to allow an “insubstantial” amount of political activity with §501(c)(3) organizations just as is allowed for lobbying. This would allow §501(c)(3) groups the flexibility to be speak their minds on political issues without losing their exempt status. At the same time it would protect the interests of the general public in not having tax dollars support political campaign activities through §501(C)(3) organizations.

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<sup>268</sup> Id.

<sup>269</sup> Id.

**WRITING SAMPLE**

IN THE COUNTY COURT, SEVENTH  
JUDICIAL CIRCUIT, IN AND FOR  
PUTNAM COUNTY, FLORIDA

CASE NO: 2014-1924 MM

DIVISION: 62

STATE OF FLORIDA,

vs.

NICHOLAS JOHNSON,

Defendant.

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**ORDER GRANTING DEFENDANT'S MOTION TO SUPPRESS**

This matter came before the Court for hearing on March 13, 2015, upon Defendant's Motion to Suppress Stop and Search. Based on the testimony and evidence presented to the Court, the Court finds as follows:

**FACTS**

In the early morning hours of August 2, 2014 Florida Fish Game and Wildlife Officer James Bonds (hereinafter "Officer Bonds") was travelling South on Highway 17 when he noticed a vehicle in front of him exhibiting a suspicious driving pattern. The suspicious vehicle made a u-turn and began to travel north on Highway 17. Officer Bonds made a u-turn but lost sight of the vehicle. Officer Bonds continued to search the area and ended up travelling south on Old San Mateo Road when he noticed a vehicle ahead of him which turned out to be the Defendant's vehicle. Officer Bonds admitted that he could not be sure if this was the same vehicle that he was following originally. He observed the Defendant's vehicle activate its brake lights prior to coming to the intersection of North Boundary Road and Old San Mateo Road. Officer Bonds was roughly 200 yards directly behind the defendant's vehicle when the brake lights were activated. It was dark outside and there were no street lights in the area. Officer Bonds testified that the defendant's vehicle did not stop at the stop sign.

In Court, Officer Bonds testified that his basis for believing that the Defendant did not stop at the stop sign was due to the fact that the defendant's headlights had illuminated the

canopy of trees around the intersection, and he never saw the headlights stop moving. However, at the hearing there seemed to be some confusion as the officer had originally articulated in an earlier sworn statement that it was the brake lights that had illuminated the intersection. Finally, Officer Bonds did not originally know that the Defendant's vehicle had failed to stop at the stop sign. The reason for this was the officer did not know there was a stop sign in the area. It was only after driving up to the intersection did he notice the stop sign.

Officer Bonds did not choose to make a traffic stop after the alleged infraction of failing to stop at the stop sign. Instead, the officer continued to follow the Defendant's vehicle as it made a turn onto Highway 100 and then a turn onto East End Road. As the Defendant's vehicle travelled down East End Road it swerved to the left so that its back left tire was in the middle of the double yellow lines for about ten (10) yards. At that point, a vehicle approached the Defendant's vehicle in the opposite lane and the defendant's vehicle swerved back to the right where his right rear tire went off the roadway and it appeared that his full tire left the roadway for a brief moment. The Defendant's vehicle then corrected and went back to the center of the lane.

Officer Bonds admitted that there were no white lines on the right side of the roadway indicating where a lane would be on the road. Further, the oncoming vehicle was not affected by the swerving of the defendant's vehicle. Officer Bonds then initiated a traffic stop on the Defendant's vehicle which led to the Defendant's subsequent arrest for Driving Under the Influence.

Officer Bonds in his report stated that the basis for the stop was for failing to stop at the aforementioned stop sign and failing to maintain a single lane. At the hearing, Officer Bonds testified that this was the basis for the traffic stop. However, after some prodding by the State the officer admitted that he also believed the Defendant's driving pattern concerned him that Defendant might be impaired. It should be noted that nowhere in the officer's report was impairment listed as the basis of the stop. Further, on the State's re-direct examination, Officer Bonds was asked for the reason for the stop, and he stated that it was the totality of the circumstances. The officer only cited the Defendant for violating Florida Statute 316.074(1) – Obedience to a Required Traffic Control Device. The officer did not cite the Defendant for Failure to Maintain a Single Lane.

### **APPLICABLE LEGAL AUTHORITY**

All that is required for a valid vehicle stop is a founded suspicion by the officer that the driver of the car, or the vehicle itself, is in violation of a traffic ordinance or statute. Davis v. State, 788 So. 2d 308, 309 (Fla. 5<sup>th</sup> DCA 2001). A traffic stop is reasonable under the Fourth Amendment where the law enforcement officer had probable cause to believe a traffic violation had occurred and the reasonableness of the stop does not depend on the subjective motivations of the officer who stopped the vehicle. Whren v. United States, 517 U.S. 806, 810 (1996) *See also*, State v. Thomas, 109 So. 3d 814 (5<sup>th</sup> DCA 2013). The validity of the traffic stop depends solely on objective criteria. Id. The objective test “asks only whether any probable cause for the stop existed,” which makes the subjective motivations of the officer irrelevant. Holland v. State, 696 So. 2d 757, 759 (Fla. 1997).

Florida Statute §316.0875 (2014) defines and sets limits on no passing zones on the roadways of Florida. The relevant language Florida Statute§ 316.0875 is as follows:

(1)The Department of Transportation and local authorities are authorized to determine those portions of any highway under their respective jurisdiction where overtaking and passing or driving to the left of the roadway would be especially hazardous and may, by appropriate signs or markings on the roadway, indicate the beginning and end of such zones, and when such signs or markings are in place and clearly visible to an ordinarily observant person, every driver of a vehicle shall obey the directions thereof.(2) Where signs or markings are in place to define a no-passing zone as set forth in subsection (1), no driver shall at any time drive on the left side of the roadway with such no-passing zone or on the left side of any pavement striping designed to mark such no-passing zone throughout its length.(3) This section does not apply when an obstruction exists making it necessary to drive to the left of the center of the highway, nor to the driver of a vehicle turning left into or from an alley, private road or driveway.

Courts have found a violation of this statute when a driver’s front and back tires have crossed over the double solid lines so that the vehicle was partially into the oncoming lane of traffic regardless of whether the defendant was creating a safety hazard. *See Lomax v. State*, 148 So. 3d 119 (Fla. 1<sup>st</sup> DCA 2014).

According to Florida Statute§ 316.089(1), a vehicle shall be driven as nearly practicable entirely within a single lane and shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety. Fla. Stat. §316.089(1) (2014). Courts

have found that a driver's failure to maintain a single lane as required by Florida Statute §316.089, does not by itself establish probable cause for a traffic stop unless the driver's behavior placed other vehicles in danger. *See Hurd v. State*, 958 So. 2d 600 (Fla. 4<sup>th</sup> DCA 2007). Because §316.089 prohibits leaving a lane unless it can be done safely, courts have reasoned that the failure to maintain a single lane alone cannot establish probable cause when the action is done safely. *Id.* Further, when a vehicle travels briefly outside of its margin for error without more is not sufficient to justify a stop for violating §316.089. *Crooks v. State*, 710 So. 2d 1041 (Fla. 2d DCA 1998). However, there is no requirement that the evidence show that the operator of the endangered vehicle took evasive action or was aware of the danger. *Williamson v. Dep't of Highway and Safety Motor Vehicles*, 933 So. 2d 665 (Fla. 1<sup>st</sup> DCA 2006).

Finally, an officer may conduct an investigatory stop on less than probable cause if the officer has a reasonable, articulable suspicion that a person has committed, is committing, or is about to commit a crime. *Popple v. State*, 626 So. 2d 185, 186 (Fla. 1993); *See also* *Tamer v. State*, 463 So. 2d 1236, 1239 (Fla. 4<sup>th</sup> DCA 1985). "In order not to violate a citizen's Fourth Amendment rights, an investigatory stop requires a well-founded, articulable suspicion of criminal activity. Mere suspicion is not enough to support a stop." *Popple*, 626 So. 2d at 186. A founded suspicion is a belief which has some factual foundation in the circumstances observed by the officer, when those circumstances are interpreted in the light of the officer's knowledge. *Tamer*, 463 So. 2d at 1239. Courts have held that an officer has reasonable suspicion to justify a traffic stop if they have a belief that the driver is ill, tired, or impaired, and they observe a driving pattern that is sufficient to warrant such a belief even if there is no traffic violation. *See Yanes v. State*, 877 So. 2d 25, 26 (Fla. 5<sup>th</sup> DCA 2004) (finding that an officer had reasonable suspicion to stop a vehicle where he observed a vehicle cross the fog line with one half of the width of his vehicle on three occasions over a one mile period, coupled with a belief that the driver was possibly impaired).

There seems to be a conflict or confusion among different courts of this state as to whether the officer needs to articulate a basis for the stop when he/she feels that the driver is ill, tired or impaired or if simply the facts provided in an arrest report or testimony at a hearing provide an objective basis for the stop. *See* David A. Demers, *Florida DUI Handbook*, §4:9 (2013-2014 Ed. West Publishing). Some courts have suggested that for an investigatory stop to be lawful when based on unusual driving which falls short of a traffic violation, then it is

important for the officer to articulate both the facts and conclusions that the officer drew from those facts. State v. Davidson, 744 So. 2d 1180 (Fla. 2<sup>nd</sup> DCA 1999). Similarly, the Florida Supreme Court upheld a circuit court's order finding a stop unlawful because the officer's report "did not indicate that impairment was the reason for the stop." See Dobrin v. Fla. Dep't of Highway Safety and Motor Vehicles, 874 So. 2d 1171, 1172 (Fla. 2004). However, in that same case the Florida Supreme Court made it clear that based upon the finding of facts, the important determination is whether there is an objective basis for the stop. Id. Thus, it seems that officers must articulate facts sufficient for the stop, but the stop must be judged by an objective standard not just the subjective motivations of the officers. See Dep't of Highway Safety and Motor Vehicles v. Jones, 935 So. 2d 532 (3<sup>rd</sup> DCA 2006).

### CONCLUSION

The State argues in this case that there are three separate reasons for validating the traffic stop in question. First, the State argued that the Defendant violated Florida Statute § 316.074(1) by failing to stop at a stop sign at the intersection of North Boundary Road and Old San Mateo Road. Second, the State argued that the Defendant failed to maintain a single lane as defined by Florida Statute § 316.089 based on his driving pattern on East End Road. Finally, the State argues that the stop was valid because the officer had reasonable suspicion to believe the Defendant was impaired based on his driving pattern. The Court finds that the State did not meet their burden and therefore, the Motion to Suppress is granted.

First, Officer Bonds did not have probable cause to stop Defendant for violating Florida Statute 316.074(1). Although the Defendant was cited for failure to stop at a traffic signal, it is objectively unreasonable that Officer Bonds actually witnessed such violation occur. The probable cause affidavit states that the officers were approximately 100 yards behind Defendant's vehicle at the time this alleged failure to stop occurred. However, at the suppression hearing, Officer Bonds stated that he was over 200 yards behind Defendant's vehicle and that it was dark outside with no other lights in the area. This distance was represented by Defendant's Exhibit 1(d).

At the hearing, Officer Bonds testified that he saw Defendant's brake lights activate as he approached the intersection. However, Officer Bonds did not even know where the stop sign was while he was watching the vehicle. It was not until he reached the intersection that he determined

that there was a stop sign in the area. Officer Bonds estimated that Defendant's vehicle moved at approximately five miles per hour through the intersection. However, Officer Bonds also admitted at the hearing that it would be impossible to perform a proper speed estimation as he was not trained in this area. Officer Bonds sole reason for believing there was a traffic violation is that he said he saw the headlights continue to move through the canopy of trees in the area of the stop sign. This reason alone is insufficient. Based on the facts before the Court, there is no reasonable objective basis for believing that the Defendant violated Florida Statute § 316.074(1) for failure to stop at a traffic signal.

Second, Officer Bonds did not have probable cause to stop the Defendant for failing to maintain a single lane as defined by Florida Statute § 316.089 based on his driving pattern on East End Road. First, the Defendant did not leave his lane of traffic when his car touched the center line and because of that, the oncoming car was never in any danger. Officer Bonds never testified that the Defendant's vehicle ever crossed over the center line, all he saw was the back left tire between the two double lines for about a distance of ten (10) yards. Officer Bonds testified that as the Defendant's vehicle travelled down East End Road it swerved to the left so that it's back left tire was in the middle of the double yellow lines for about ten (10) yards. This was only a slight margin of error for a brief period of time which would not justify a stop without the vehicle in the other lane being endangered as stated in Crooks v. State, 710 So. 2d 1041 (Fla. 2d DCA 1998) and that would not have been possible since the Defendant never fully left his lane to endanger the other vehicle.

At that point, a vehicle approached the Defendant's vehicle in the opposite lane and the Defendant's vehicle swerved back to the right where his right rear tire went off the roadway and it appeared that his full tire left the roadway for a brief moment. The Defendant's vehicle then corrected and went back to the center of the lane. The officer admitted that there were no white lines on the right side of the roadway indicating where a lane would be on the road. This conduct does not give rise to a violation of §316.089 because this was only a minor deviation, and the oncoming vehicle was not endangered.

Next, Officer Bonds never wrote any citation to the Defendant for violating Florida's no passing zones law. However, this issue was raised at the suppression hearing. Thus, to clarify any issue in this matter, the Court also finds that there was no violation of Florida Statute§ 316.0875. The reason for this is that the Defendant's vehicle never fully crossed over the center line. The basis for the Court's conclusion is supported by Lomax v. State, 148 So. 3d 119 (Fla.

1<sup>st</sup> DCA 2014).

Finally, the Court does not find that there was reasonable suspicion to justify a stop on the basis that the Defendant was ill, tired, or impaired. Officer Bonds never placed in his probable cause affidavit that he stopped the Defendant because he thought he was ill, tired or impaired. In addition, he testified that he placed everything in his report that he thought was important for this case. It was only at the suppression hearing, after some prodding by the State, did he say he was concerned about possible impairment. However, he never articulated why he was concerned about possible impairment. Further, he was asked on re-direct why he stopped the vehicle and his response was the driving pattern and all his observations together, but he never articulated how this fit with an impaired driver. Thus, Officer Bonds never clearly articulated that he stopped the vehicle because he thought the Defendant was impaired.

Also, objectively looking at the facts before the Court there was no basis for the stop in question. The only driving pattern that the Court can consider is that of the pattern on East End Road. The driving pattern of having one tire in the middle of the double yellow lines for ten (10) yards and then correcting to the right to what appeared as a tire off the roadway where there was no designated lane for only brief period of time, does not constitute reasonable suspicion to believe the Defendant was ill, tired or impaired. That driving pattern only rises to the level of mere suspicion not reasonable suspicion. In fact, from the time that Officer Bonds saw the vehicle on Old San Mateo Road until the stop was made on East End Road, Officer Bonds and the Defendant covered a distance of a couple miles. Throughout the entire time the Officer followed the Defendant, he did not violate any traffic law or exhibit any suspicious driving pattern other than the perceived running of a stop sign which has already been discussed above before they reached East End Road. Thus, objectively, the minor deviations in the lane on East End Road do not give rise to a valid traffic stop.

**THEREFORE IT IS ORDERED AND ADJUDGED** that the Defendant's MOTION TO SUPPRESS is hereby **GRANTED**.

**DONE AND ORDERED** in Palatka, Putnam County, Florida this 20<sup>th</sup> day of March, 2015.

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**JOE BOATWRIGHT**  
**COUNTY COURT JUDGE**

# FINANCIAL INFORMATION

## FORM 6

FULL AND PUBLIC DISCLOSURE  
OF FINANCIAL INTERESTS

2019

Please print or type your name, mailing  
address, agency name, and position below:

FOR OFFICE USE ONLY:

LAST NAME — FIRST NAME — MIDDLE NAME:

Boatwright II, C. Joseph

MAILING ADDRESS:

[REDACTED]

CITY:

ZIP:

COUNTY:

FL

Putnam

NAME OF AGENCY:

State of Florida 7th Judicial Circuit

NAME OF OFFICE OR POSITION HELD OR SOUGHT:

Putnam County Court Judge

CHECK IF THIS IS A FILING BY A CANDIDATE ☐

## PART A -- NET WORTH

Please enter the value of your net worth as of December 31, 2019 or a more current date. [Note: Net worth is not calculated by subtracting your *reported* liabilities from your *reported* assets, so please see the instructions on page 3.]

My net worth as of December 31, 20 19 was \$ 748,338.58.

## PART B -- ASSETS

## HOUSEHOLD GOODS AND PERSONAL EFFECTS:

Household goods and personal effects may be reported in a lump sum if their aggregate value exceeds \$1,000. This category includes any of the following, if not held for investment purposes: jewelry; collections of stamps, guns, and numismatic items; art objects; household equipment and furnishings; clothing; other household items; and vehicles for personal use, whether owned or leased.

The aggregate value of my household goods and personal effects (described above) is \$ Est. 75,000

## ASSETS INDIVIDUALLY VALUED AT OVER \$1,000:

DESCRIPTION OF ASSET (specific description is required - see instructions p.4)

VALUE OF ASSET

See attached Exhibit 1

## PART C -- LIABILITIES

## LIABILITIES IN EXCESS OF \$1,000 (See instructions on page 4):

NAME AND ADDRESS OF CREDITOR

AMOUNT OF LIABILITY

See attached Exhibit 1

## JOINT AND SEVERAL LIABILITIES NOT REPORTED ABOVE:

NAME AND ADDRESS OF CREDITOR

AMOUNT OF LIABILITY

None

## PART D -- INCOME

Identify each separate source and amount of income which exceeded \$1,000 during the year, including secondary sources of income. Or attach a complete copy of your 2019 federal income tax return, including all W2s, schedules, and attachments. Please redact any social security or account numbers before attaching your returns, as the law requires these documents be posted to the Commission's website.

☐ I elect to file a copy of my 2019 federal income tax return and all W2's, schedules, and attachments.  
(If you check this box and attach a copy of your 2019 tax return, you need not complete the remainder of Part D.)

PRIMARY SOURCES OF INCOME (See Instructions on page 5):

NAME OF SOURCE OF INCOME EXCEEDING \$1,000	ADDRESS OF SOURCE OF INCOME	AMOUNT
See attached Exhibit I		

SECONDARY SOURCES OF INCOME (Major customers, clients, etc., of businesses owned by reporting person--see instructions on page 5):

NAME OF BUSINESS ENTITY	NAME OF MAJOR SOURCES OF BUSINESS' INCOME	ADDRESS OF SOURCE	PRINCIPAL BUSINESS ACTIVITY OF SOURCE
None			

## PART E -- INTERESTS IN SPECIFIED BUSINESSES (Instructions on page 6)

	BUSINESS ENTITY # 1	BUSINESS ENTITY # 2	BUSINESS ENTITY # 3
NAME OF BUSINESS ENTITY	None		
ADDRESS OF BUSINESS ENTITY			
PRINCIPAL BUSINESS ACTIVITY			
POSITION HELD WITH ENTITY			
I OWN MORE THAN A 5% INTEREST IN THE BUSINESS			
NATURE OF MY OWNERSHIP INTEREST			

## PART F - TRAINING

For officers required to complete annual ethics training pursuant to section 112.3142, F.S.

☒ I CERTIFY THAT I HAVE COMPLETED THE REQUIRED TRAINING.

## OATH

I, the person whose name appears at the beginning of this form, do depose on oath or affirmation and say that the information disclosed on this form and any attachments hereto is true, accurate, and complete.

STATE OF FLORIDA

COUNTY OF Putnam

Sworn to (or affirmed) and subscribed before me by means of  
☒ physical presence or ☐ online notarization, this \_\_\_\_\_ day of

May 15, 2020 by C Joe Boatwright

Trinisha Shaunta Austin  
(Signature of Notary Public--State of Florida)

Trinisha Shaunta Austin  
(Print, Type, or Stamp Commissioned Name of Notary Public)

Personally Known ☒ OR Produced Identification \_\_\_\_\_

Type of Identification Produced \_\_\_\_\_

SIGNATURE OF REPORTING OFFICIAL OR CANDIDATE

If a certified public accountant licensed under Chapter 473, or attorney in good standing with the Florida Bar prepared this form for you, he or she must complete the following statement:

I, \_\_\_\_\_, prepared the CE Form 6 in accordance with Art. II, Sec. 8, Florida Constitution, Section 112.3144, Florida Statutes, and the instructions to the form. Upon my reasonable knowledge and belief, the disclosure herein is true and correct.

Signature

Date

Preparation of this form by a CPA or attorney does not relieve the filer of the responsibility to sign the form under oath.

IF ANY OF PARTS A THROUGH E ARE CONTINUED ON A SEPARATE SHEET, PLEASE CHECK HERE ☐

EXHIBIT 1

PART B- ASSETS

Assets Over \$1,000.00	Value
1. Capital City Money Market	\$150,044.51
2. Capital City Checking Account	\$21,502.55
3. Property [REDACTED]	\$165,540.00
4. Property [REDACTED]	\$53,760.00
5. Property [REDACTED]	\$48,530.00
6. Property [REDACTED]	\$14,060.00
7. Property [REDACTED]	\$66,460.00
8. State of Florida Retirement Investment Account	\$286,595.28

PART C-LIABILITIES

Creditor	Amount of Liability
1. Wells Fargo, P.O. Box 14411, Des Moines IA	\$133,153.76

PART D-INCOME

Primary Source of Income	Amount
1. State of Florida 200 E. Gaines Street Tallahassee, Fl 32399	\$151,821.96
2. St. Johns River State College 5001 St. Johns Ave. Palatka, Fl	\$6,000.00
3. Rental Income [REDACTED] [REDACTED]	\$7,800.00
4. Rental Income [REDACTED] [REDACTED]	\$9,600.00
5. Rental Income [REDACTED] [REDACTED]	\$7,200.00

**Form 6A. Disclosure of Gifts, Expense Reimbursements or Payments, and Waivers  
of Fees and Charges**

All judicial officers must file with the Florida Commission on Ethics a list of all reportable gifts accepted, and reimbursements or direct payments of expenses, and waivers of fees or charges accepted from sources other than the state or a judicial branch entity as defined in Florida Rule of Judicial Administration 2.420(b)(2), during the preceding calendar year as provided in Canons 5D(5)(a) and 5D(5)(h), Canon 6A(3), and Canon 6B(2) of the Code of Judicial Conduct, by date received, description (including dates, location, and purpose of event or activity for which expenses, fees, or charges were reimbursed, paid, or waived), source's name, and amount for gifts only.

Name: C. Joseph Boatwright II Work Telephone: (386) 329-0269

Work Address: P.O. Box 758, Palatka, FL 32178 Judicial Office Held: County Court Judge

1. Please identify all reportable gifts, bequests, favors, or loans you received during the preceding calendar year, as required by Canons 5D(5)(a), 5D(5)(h), and 6B(2) of the Code of Judicial Conduct.

DATE	DESCRIPTION	SOURCE	AMOUNT
	None		\$
			\$
			\$
			\$

☐ Check here if continued on separate sheet

2. Please identify all reportable reimbursements or direct payments of expenses, and waivers of fees or charges you received during the preceding calendar year, as required by Canons 6A(3) and 6B(2) of the Code of Judicial Conduct.

DATE	DESCRIPTION (Include dates, location, and purpose of event or activity for which expenses, fees, or charges were reimbursed, paid or waived)	SOURCE
	None	

☐ Check here if continued on separate sheet

**CONTINUE TO PAGE 2 FOR OATH**

OATH

State of Florida

County of Putnam

I, C. Joseph Boatwright II, the public official filing this disclosure statement, being first duly sworn, do depose on oath and say that the facts set forth in the above statement are true, correct, and complete to the best of my knowledge and belief.

C. Joseph Boatwright II  
(Signature of Reporting Official)

Trinisha Shawnta Austin  
(Signature of Officer Authorized to Administer Oaths)

My Commission expires 3/28/2023

Sworn to and subscribed before me this

15th day of May, 2020



Trinisha Shawnta Austin  
NOTARY PUBLIC  
STATE OF FLORIDA  
Comm# 00307374  
Expires 3/28/2023

Form 6B. Report of Business Interests

**Instructions:** List the names of any corporations or business entities, not otherwise identified on Form 6, in which you had a financial interest as of December 31 of the preceding year. If no business interests, or the interests are already identified on Form 6, then indicate "None," or "N/A." Attach additional pages as necessary. This form is filed only with the JQC.

Name of Judge: C. JOSEPH BOATWRIGHT II Telephone: 386-329-0269

Address: P.O. BOX 758, PALATKA, FL 32178 Position: PUTNAM COUNTY COURT JUDGE

Name of Business Entity

NONE

Address of Business Entity

I certify that the foregoing information is complete, true, and correct

Judge's Signature

OATH

State of Florida,  
County of Putnam

Sworn to (or affirmed) and subscribed before me by means of

☒ physical presence or ☐ online notarization, this 15th day of May

2020, by C. Joe Boatwright (Name of Judge).

Notary Seal

Trishia Shawnta Austin  
(Signature of Notary)

Personally Known ☒, or Produced Identification ☐

Identification Produced: \_\_\_\_\_



Trishia Shawnta Austin  
NOTARY PUBLIC  
STATE OF FLORIDA  
Comm# GG307374  
Expires 3/28/2023

**Form 6B. Report of Business Interests**

**Instructions:** List the names of any corporations or business entities, not otherwise identified on Form 6, in which you had a financial interest as of December 31 of the preceding year. If no business interests, or the interests are already identified on Form 6, then indicate "None," or "N/A." Attach additional pages as necessary. This form is filed only with the JQC.

Name of Judge: C. JOSEPH BOATWRIGHT II Telephone: 386-327-0269

Address: P.O. BOX 758, PALATKA, FL 32178 Position: PUTNAM COUNTY COMM. JUDGE

Name of Business Entity

Address of Business Entity

NONE

I certify that the foregoing information is complete, true, and correct

[Signature]  
JUDGE'S SIGNATURE

OATH

State of Florida,  
County of Putnam

Sworn to (or affirmed) and subscribed before me by means of

☒ physical presence or ☐ online notarization, this 15th day of May,  
2020 by C Joe Boatwright (Name of Judge).

Notary Seal

[Signature]  
(Signature of Notary)

Personally Known ☒, or Produced Identification \_\_\_\_\_

Identification Produced: \_\_\_\_\_



Trinisha Shawnta Austin  
NOTARY PUBLIC  
STATE OF FLORIDA  
Comm# GG307374  
Expires 3/28/2023

For the year Jan. 1-Dec. 31, 2017, or other tax year beginning , 2017, ending , 20

**See separate instructions.**

Your first name and initial **CARLESS J.** Last name **BOATWRIGHT** Your social security number [REDACTED]

If a joint return, spouse's first name and initial [REDACTED] Last name **BOATWRIGHT** Spouse's social security number [REDACTED]

Home address (number and street). If you have a P.O. box, see instructions. [REDACTED] Apt. no. [REDACTED]

City, town or post office, state, and ZIP code. If you have a foreign address, also complete spaces below. [REDACTED]

Foreign country name Foreign province/state/county Foreign postal code

☐ You ☐ Spouse

**Filing Status**

1 ☐ Single 4 ☐ Head of household (with qualifying person). If the qualifying person is a child but not your dependent, enter this child's name here. ▶

2 ☒ Married filing jointly (even if only one had income)

3 ☐ Married filing separately. Enter spouse's SSN above and full name here. ▶ 5 ☐ Qualifying widow(er) (see instructions)

Check only one box.

**Exemptions**

6a ☒ Yourself. If someone can claim you as a dependent, do not check box 6a

b ☒ Spouse

c Dependents:

(1) First name	Last name	(2) Dependent's social security number	(3) Dependent's relationship to you	(4) If child under age 17 qualifying for child tax credit
[REDACTED]	[REDACTED]	[REDACTED]	DAUGHTER	<input checked="" type="checkbox"/>
[REDACTED]	[REDACTED]	[REDACTED]	DAUGHTER	<input checked="" type="checkbox"/>
[REDACTED]	[REDACTED]	[REDACTED]	SON	<input checked="" type="checkbox"/>

If more than four dependents, see instructions and check here ▶ ☐

d Total number of exemptions claimed 5

Boxes checked on 6a and 6b 2

No. of children on 6c who:

- lived with you 3
- did not live with you due to divorce or separation (see instructions)

Dependents on 6c not entered above

Add numbers on lines above ▶ 5

**Income**

7 Wages, salaries, tips, etc. Attach Form(s) W-2 7 141,541.

8a Taxable interest. Attach Schedule B if required 8a 46.

b Tax-exempt interest. Do not include on line 8a 8b

9a Ordinary dividends. Attach Schedule B if required 9a

b Qualified dividends 9b

10 Taxable refunds, credits, or offsets of state and local income taxes 10

11 Alimony received 11

12 Business income or (loss). Attach Schedule C or C-EZ 12

13 Capital gain or (loss). Attach Schedule D if required. If not required, check here ▶ ☐ 13

14 Other gains or (losses). Attach Form 4797 14

15a IRA distributions 15a b Taxable amount 15b

16a Pensions and annuities 16a b Taxable amount 16b

17 Rental real estate, royalties, partnerships, S corporations, trusts, etc. Attach Schedule E 17 4,931.

18 Farm income or (loss). Attach Schedule F 18

19 Unemployment compensation 19

20a Social security benefits 20a b Taxable amount 20b

21 Other income. List type and amount 21

22 Combine the amounts in the far right column for lines 7 through 21. This is your total income 22 146,518.

**Adjusted Gross Income**

23 Educator expenses 23

24 Certain business expenses of reservists, performing artists, and fee-basis government officials. Attach Form 2106 or 2106-EZ 24

25 Health savings account deduction. Attach Form 8889 25

26 Moving expenses. Attach Form 3903 26

27 Deductible part of self-employment tax. Attach Schedule SE 27

28 Self-employed SEP, SIMPLE, and qualified plans 28

29 Self-employed health insurance deduction 29

30 Penalty on early withdrawal of savings 30

31a Alimony paid b Recipient's SSN ▶ 31a

32 IRA deduction 32

33 Student loan interest deduction 33

34 Reserved for future use 34

35 Domestic production activities deduction. Attach Form 8903 35

36 Add lines 23 through 35 36

37 Subtract line 36 from line 22. This is your adjusted gross income 37 146,518.

<b>Tax and Credits</b>	38	Amount from line 37 (adjusted gross income)	38	146,518.
<b>Standard Deduction for:</b> • People who check any box on line 39a or 39b. Of who can be claimed as a dependent, see instructions.  • All others: Single or Married filing separately, \$6,350 Married filing jointly or Qualifying widow(er), \$12,700 Head of household, \$9,350	39a	Check <input type="checkbox"/> You were born before January 2, 1953, <input type="checkbox"/> Blind. <input type="checkbox"/> Spouse was born before January 2, 1953, <input type="checkbox"/> Blind. Total boxes checked ... 39a		
	b	If your spouse itemizes on a separate return or you were a dual-status alien, check here ... 39b		
	40	Itemized deductions (from Schedule A) or your standard deduction (see left margin)	40	13,702.
	41	Subtract line 40 from line 38	41	132,816.
	42	Exemptions. If line 38 is \$156,900 or less, multiply \$4,050 by the number on line 6d. Otherwise, see inst.	42	20,250.
	43	Taxable income. Subtract line 42 from line 41. If line 42 is more than line 41, enter -0-	43	112,566.
	44	Tax. Check if any from: a <input type="checkbox"/> Form(s) 8814 b <input type="checkbox"/> Form 4972 c <input type="checkbox"/>	44	19,619.
	45	Alternative minimum tax. Attach Form 6251	45	
	46	Excess advance premium tax credit repayment. Attach Form 8962	46	
	47	Add lines 44, 45, and 46	47	19,619.
	48	Foreign tax credit. Attach Form 1116 if required	48	
	49	Credit for child and dependent care expenses. Attach Form 2441	49	
	50	Education credits from Form 8863, line 19	50	
	51	Retirement savings contributions credit. Attach Form 8880	51	
	52	Child tax credit. Attach Schedule 8812, if required	52	1,150.
	53	Residential energy credit. Attach Form 5695	53	
	54	Other credits from Form: a <input type="checkbox"/> 3800 b <input type="checkbox"/> 8801 c <input type="checkbox"/>	54	
	55	Add lines 48 through 54. These are your total credits	55	1,150.
	56	Subtract line 55 from line 47. If line 55 is more than line 47, enter -0-	56	18,469.
<b>Other Taxes</b>	57	Self-employment tax. Attach Schedule SE	57	
	58	Unreported social security and Medicare tax from Form: a <input type="checkbox"/> 4137 b <input type="checkbox"/> 8919	58	
	59	Additional tax on IRAs, other qualified retirement plans, etc. Attach Form 5329 if required	59	
	60a	Household employment taxes from Schedule H	60a	
	b	First-time homebuyer credit repayment. Attach Form 5405 if required	60b	
	61	Health care: Individual responsibility (see instructions) Full-year coverage <input checked="" type="checkbox"/>	61	
	62	Taxes from: a <input type="checkbox"/> Form 8959 b <input type="checkbox"/> Form 8960 c <input type="checkbox"/> Inst.; enter code(s)	62	
	63	Add lines 56 through 62. This is your total tax	63	18,469.
<b>Payments</b>	64	Federal income tax withheld from Forms W-2 and 1099	64	21,057.
	65	2017 estimated tax payments and amount applied from 2016 return	65	
If you have a qualifying child, attach Schedule EIC.	66a	Earned income credit (EIC)	66a	
	b	Nontaxable combat pay election 66b		
	67	Additional child tax credit. Attach Schedule 8812	67	
	68	American opportunity credit from Form 8863, line 8	68	
	69	Net premium tax credit. Attach Form 8962	69	
	70	Amount paid with request for extension to file	70	
	71	Excess social security and tier 1 RRTA tax withheld	71	
	72	Credit for federal tax on fuels. Attach Form 4136	72	
	73	Credits from Form: a <input type="checkbox"/> 2439 b <input type="checkbox"/> Reserved c <input type="checkbox"/> 8885 d <input type="checkbox"/>	73	
	74	Add lines 64, 65, 66a, and 67 through 73. These are your total payments	74	21,057.
<b>Refund</b>	75	If line 74 is more than line 63, subtract line 63 from line 74. This is the amount you overpaid	75	2,588.
	76a	Amount of line 75 you want refunded to you. If Form 8888 is attached, check here	76a	2,588.
Direct deposit? See instructions.	b	Routing number <input type="checkbox"/> Type: <input checked="" type="checkbox"/> Checking <input type="checkbox"/> Savings <input type="checkbox"/> Account number <input type="checkbox"/>		
	77	Amount of line 75 you want applied to your 2018 estimated tax	77	
<b>Amount You Owe</b>	78	Amount you owe. Subtract line 74 from line 63. For details on how to pay, see instructions	78	
	79	Estimated tax penalty (see instructions)	79	
<b>Third Party Designee</b>	Do you want to allow another person to discuss this return with the IRS (see instructions)? <input checked="" type="checkbox"/> Yes. Complete below. <input type="checkbox"/> No			
	Designee's name	JOHN D. ROWE, CPA	Phone no.	386-325-4561
			Personal identification number (PIN)	99553
<b>Sign Here</b>	Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and accurately list all amounts and sources of income I received during the tax year. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.			
Joint return? See instructions. Keep a copy for your records.	Your signature	Date	Your occupation	Daytime phone number
	Spouse's signature. If a joint return, both must sign.	Date	Spouse's occupation	If the IRS sent you an Identity Protection PIN, enter it here
<b>Paid Preparer Use Only</b>	Print/Type preparer's name	Preparer's signature	Date	Check <input type="checkbox"/> if self-employed PTIN
	JOHN D. ROWE, CPA	JOHN D. ROWE, CPA	02/21/18	P00099553
	Firm's name	CARR, RIGGS & INGRAM, LLC	Firm's EIN	72-1396621
		906 S STATE RD 19	Phone no.	386-325-4561
	Firm's address	PALATKA, FL 32177		

# **Child Tax Credit Worksheet** (keep for your records)

Name(s): First **CARLESS J. & [REDACTED]** Last **BOATWRIGHT** Your SSN **[REDACTED]**

## **Part 1**

1. Number of qualifying children: 3 X \$1,000. Enter the result. 1 3,000.
2. Enter the amount from Form 1040, line 38, Form 1040A, line 22, or Form 1040NR, line 37. 2 146,518.
3. 1040 filers: Enter the total of any-
  - Exclusion of income from Puerto Rico, and
  - Amounts from Form 2555, lines 45 and 50; Form 2555-EZ, line 18; and Form 4563, line 15.
 1040A and 1040NR filers: Enter -0-. 3 0.
4. Add lines 2 and 3. Enter the total. 4 146,518.
5. Enter the amount shown below for your filing status.
  - Married filing jointly - \$110,000
  - Single, head of household, or qualifying widow(er) - \$75,000
  - Married filing separately - \$55,000
 5 110,000.
6. Is the amount on line 4 more than the amount on line 5?
  - ☐ No. Leave line 6 blank. Enter -0- on line 7.
  - ☒ Yes. Subtract line 5 from line 4. 6 37,000.  
If the result is not a multiple of \$1,000, increase it to the next multiple of \$1,000 (for example, increase \$425 to \$1,000, increase \$1,025 to \$2,000, etc).
7. Multiply the amount on line 6 by 5% (.05). Enter the result. 7 1,850.
8. Is the amount on line 1 more than the amount on line 7?
  - ☐ No. **STOP**  
You cannot take the child tax credit on Form 1040, line 52, Form 1040A, line 35, or Form 1040NR, line 49. You also cannot take the additional child tax credit.
  - ☒ Yes. Subtract line 7 from line 1. Enter the result. 8 1,150.

## **Part 2**

9. Enter the amount from Form 1040, line 47, Form 1040A, line 30, or Form 1040NR, line 45. 9 19,619.
10. 1040 filers: Enter the total of the amounts from lines 48 through 51.\*  
1040A filers: Enter the total of the amounts from lines 31 through 34.  
1040NR filers: Enter the total of the amounts from lines 46 through 48.\* } ... 10 \_\_\_\_\_
11. Are you claiming any of the following credits?
  - Residential energy efficient property credit, Form 5695, Part I.
  - Mortgage interest credit, Form 8396
  - Qualified adoption expenses, Form 8839
  - District of Columbia first-time homebuyer credit, Form 8859☒ No. Enter the amount from line 10. } 11 \_\_\_\_\_  
☐ Yes. If you are filing Form 2555 or 2555-EZ, enter the amount from line 10. Otherwise, complete the Line 11 Worksheet to figure the amount to enter here.
12. Subtract line 11 from line 9. Enter the result. 12 19,619.
13. Is the amount on line 8 of this worksheet more than the amount on line 12?
  - ☒ No. Enter the amount from line 8. } This is your
  - ☐ Yes. Enter the amount from line 12. } child tax credit. 13 1,150.

\* Also include amounts from:

Form 5695, line 30  
Form 8910, line 15  
Form 8936, line 23  
Schedule R, line 22

**SCHEDULE A  
(Form 1040)**

Department of the Treasury  
Internal Revenue Service (99)

**Itemized Deductions**

► Go to [www.irs.gov/ScheduleA](http://www.irs.gov/ScheduleA) for instructions and the latest information.  
► Attach to Form 1040.

Caution: If you are claiming a net qualified disaster loss on Form 4684, see the instructions for line 28.

OMB No. 1545-0074

**2017**

Attachment  
Sequence No. 07

Your social security number

**CARLESS J. & [REDACTED] BOATWRIGHT**

<b>Medical and Dental Expenses</b>	Caution: Do not include expenses reimbursed or paid by others.		
1	Medical and dental expenses (see instructions)	1	
2	Enter amount from Form 1040, line 38	2	
3	Multiply line 2 by 7.5% (0.075)	3	
4	Subtract line 3 from line 1. If line 3 is more than line 1, enter -0-	4	
<b>Taxes You Paid</b>	5 State and local (check only one box):	5	1,551.
	a <input type="checkbox"/> Income taxes, or		
	b <input checked="" type="checkbox"/> General sales taxes	6	1,853.
6	Real estate taxes (see instructions) SEE STATEMENT 2	7	
7	Personal property taxes	8	
8	Other taxes. List type and amount ►	9	3,404.
9	Add lines 5 through 8		
<b>Interest You Paid</b>	10 Home mortgage interest and points reported to you on Form 1098 STMT 1	10	8,681.
11	Home mortgage interest not reported to you on Form 1098. If paid to the person from whom you bought the home, see instructions and show that person's name, identifying no., and address ►	11	
Note: Your mortgage interest deduction may be limited (see instructions).	12 Points not reported to you on Form 1098. See instructions for special rules	12	
13	Reserved for future use	13	
14	Investment interest. Attach Form 4952 if required. See instructions	14	
15	Add lines 10 through 14	15	8,681.
<b>Gifts to Charity</b>	16 Gifts by cash or check. If you made any gift of \$250 or more, see instructions	16	867.
If you made a gift and got a benefit for it, see instructions.	17 Other than by cash or check. If any gift of \$250 or more, see instructions. You must attach Form 8283 if over \$500	17	750.
18	Carryover from prior year	18	
19	Add lines 16 through 18	19	1,617.
<b>Casualty and Theft Losses</b>	20 Casualty or theft loss(es) other than net qualified disaster losses. Attach Form 4684 and enter the amount from line 18 of that form. See instructions	20	
<b>Job Expenses and Certain Miscellaneous Deductions</b>	21 Unreimbursed employee expenses - job travel, union dues, job education, etc. Attach Form 2106 or 2106-EZ if required. See instructions. ►	21	
22	Tax preparation fees	22	350.
23	Other expenses - investment, safe deposit box, etc. List type and amount ►	23	
24	Add lines 21 through 23	24	350.
25	Enter amount from Form 1040, line 38	25	146,518.
26	Multiply line 25 by 2% (0.02)	26	2,930.
27	Subtract line 26 from line 24. If line 26 is more than line 24, enter -0-	27	0.
<b>Other Miscellaneous Deductions</b>	28 Other - from list in instructions. List type and amount ►	28	
29	Is Form 1040, line 38, over \$156,900?	29	13,702.
<b>Total Itemized Deductions</b>	<input checked="" type="checkbox"/> No. Your deduction is not limited. Add the amounts in the far right column for lines 4 through 28. Also, enter this amount on Form 1040, line 40. <input type="checkbox"/> Yes. Your deduction may be limited. See the Itemized Deductions Worksheet in the instructions to figure the amount to enter.		
30	If you elect to itemize deductions even though they are less than your standard deduction, check here		

**SCHEDULE B**  
(Form 1040A or 1040)

Department of the Treasury  
Internal Revenue Service (99)  
Name(s) shown on return

**Interest and Ordinary Dividends**

▶ Attach to Form 1040A or 1040.

▶ Go to [www.irs.gov/ScheduleB](http://www.irs.gov/ScheduleB) for instructions and the latest information.

OMB No. 1545-0074

**2017**

Attachment  
Sequence No. 08

Your social security number

CARLESS J. & [REDACTED] BOATWRIGHT

**Part I**

**Interest**

- 1 List name of payer. If any interest is from a seller-financed mortgage and the buyer used the property as a personal residence, see the instructions and list this interest first. Also, show that buyer's social security number and address ▶  
**CAPITAL CITY BANK**

**Amount**

46.

**Note:** If you received a Form 1099-INT, Form 1099-OID, or substitute statement from a brokerage firm, list the firm's name as the payer and enter the total interest shown on that form.

- 2 Add the amounts on line 1 .....  
3 Excludable interest on series EE and I U.S. savings bonds issued after 1989. Attach Form 8815 .....  
4 Subtract line 3 from line 2. Enter the result here and on Form 1040A, or Form 1040, line 8a ... ▶

46.

46.

**Note:** If line 4 is over \$1,500, you must complete Part III.

**Amount**

**Part II**

**Ordinary Dividends**

- 5 List name of payer ▶

**Note:** If you received a Form 1099-DIV or substitute statement from a brokerage firm, list the firm's name as the payer and enter the ordinary dividends shown on that form.

- 6 Add the amounts on line 5. Enter the total here and on Form 1040A, or Form 1040, line 9a ... ▶

**Note:** If line 6 is over \$1,500, you must complete Part III.

**Part III**

**Foreign Accounts and Trusts**

You must complete this part if you (a) had over \$1,500 of taxable interest or ordinary dividends; (b) had a foreign account; or (c) received a distribution from, or were a grantor of, or a transferor to, a foreign trust.

**Yes No**

- 7a At any time during 2017, did you have a financial interest in or signature authority over a financial account (such as a bank account, securities account, or brokerage account) located in a foreign country? See instructions .....  
If "Yes," are you required to file FinCEN Form 114, Report of Foreign Bank and Financial Accounts (FBAR), to report that financial interest or signature authority? See FinCEN Form 114 and its instructions for filing requirements and exceptions to those requirements .....

X

- b If you are required to file FinCEN Form 114, enter the name of the foreign country where the financial account is located ▶

- 8 During 2017, did you receive a distribution from, or were you the grantor of, or transferor to, a foreign trust? If "Yes," you may have to file Form 3520. See instructions .....

X

727501 10-25-17

LHA For Paperwork Reduction Act Notice, see your tax return instructions.

Schedule B (Form 1040A or 1040) 2017

## Interest and Dividend Summary

Name: CARLESS J. & [REDACTED] BOATWRIGHT

FEIN/SSN: 589-54-8612

[illegible]

**SCHEDULE E**
**(Form 1040)**

 Department of the Treasury  
Internal Revenue Service (99)

**Supplemental Income and Loss**

(From rental real estate, royalties, partnerships, S corporations, estates, trusts, REMICs, etc.)

Attach to Form 1040, 1040NR, or Form 1041.

 Go to [www.irs.gov/ScheduleE](http://www.irs.gov/ScheduleE) for instructions and the latest information.

OMB No. 1545-0074

**2017**

 Attachment  
Sequence No. 13

Name(s) shown on return

Your social security number

**CARLESS J. & [REDACTED] BOATWRIGHT**
**Part I Income or Loss From Rental Real Estate and Royalties** Note: If you are in the business of renting personal property, use

Schedule C or C-EZ (see instructions). If you are an individual, report farm rental income or loss from Form 4835 on page 2, line 40.

 A Did you make any payments in 2017 that would require you to file Form(s) 1099? (see instructions) ☐ Yes ☒ No

 B If "Yes," did you or will you file required Forms 1099? ☐ Yes ☐ No

1a Physical address of each property (street, city, state, ZIP code)

A	[REDACTED]
B	[REDACTED]
C	[REDACTED]

1b	Type of Property (from list below)	2 For each rental real estate property listed above, report the number of fair rental and personal use days. Check the QJV box only if you meet the requirements to file as a qualified joint venture. See instructions.	Fair Rental Days	Personal Use Days	QJV
A	1		A 365		<input type="checkbox"/>
B	1		B 365		<input type="checkbox"/>
C	1		C 365		<input type="checkbox"/>

**Type of Property:**

- |                           |                              |             |                    |
|---------------------------|------------------------------|-------------|--------------------|
| 1 Single Family Residence | 3 Vacation/Short-Term Rental | 5 Land      | 7 Self-Rental      |
| 2 Multi-Family Residence  | 4 Commercial                 | 6 Royalties | 8 Other (describe) |

Income:		Properties:	A	B	C
3	Rents received	3	7,150.	7,200.	7,200.
4	Royalties received	4			
<b>Expenses:</b>					
5	Advertising	5			
6	Auto and travel (see instructions)	6			
7	Cleaning and maintenance	7	3,570.	145.	
8	Commissions	8			
9	Insurance	9	715.	552.	806.
10	Legal and other professional fees	10			
11	Management fees	11			
12	Mortgage interest paid to banks, etc. (see instructions)	12			
13	Other interest	13			
14	Repairs	14	385.	285.	
15	Supplies	15			
16	Taxes	16	1,160.	2,023.	1,016.
17	Utilities	17	33.	91.	
18	Depreciation expense or depletion	18	3,083.	1,286.	1,469.
19	Other (list) ▶	19			
20	Total expenses. Add lines 5 through 19	20	8,946.	4,382.	3,291.
21	Subtract line 20 from line 3 (rents) and/or 4 (royalties). If result is a (loss), see instructions to find out if you must file Form 6198	21	-1,796.	2,818.	3,909.
22	Deductible rental real estate loss after limitation, if any, on Form 8582 (see instructions)	22	1,796.)		
23a	Total of all amounts reported on line 3 for all rental properties	23a	21,550.		
b	Total of all amounts reported on line 4 for all royalty properties	23b			
c	Total of all amounts reported on line 12 for all properties	23c			
d	Total of all amounts reported on line 18 for all properties	23d	5,838.		
e	Total of all amounts reported on line 20 for all properties	23e	16,619.		
24	Income. Add positive amounts shown on line 21. Do not include any losses	24			6,727.
25	Losses. Add royalty losses from line 21 and rental real estate losses from line 22. Enter total losses here	25			1,796.)
26	Total rental real estate and royalty income or (loss). Combine lines 24 and 25. Enter the result here. If Parts II, III, IV, and line 40 on page 2 do not apply to you, also enter this amount on Form 1040, line 17, or Form 1040NR, line 18. Otherwise, include this amount in the total on line 41 on page 2	26			4,931.

LHA For Paperwork Reduction Act Notice, see the separate instructions.

Schedule E (Form 1040) 2017

2017 DEPRECIATION AND AMORTIZATION REPORT

RENTAL PROPERTY - [REDACTED]

SCHEDULE E- 1

Asset No.	Description	Date Acquired	Method	Life	Conv No.	Unadjusted Cost Or Basis	Bus % Excl	Section 179 Expense	Reduction In Basis	Basis For Depreciation	Beginning Accumulated Depreciation	Current Sec 179 Expense	Current Year Deduction	Ending Accumulated Depreciation
1	RENTAL HOUSE	06/01/05	SL	27.50	HM17	50,000.				50,000.	20,983.		1,818.	22,801.
2	LAND	06/01/05	L		HY	7,000.				7,000.			0.	0.
3	AIR CONDITIONER	09/15/05	150DE	15.00	HQ17	4,800.				4,800.	3,772.		284.	4,056.
4	WELL & IMPROVEMENTS	10/21/05	150DE	15.00	HQ17	6,689.				6,689.	5,158.		395.	5,553.
5	FLOORING	10/15/05	200DE	5.00	HQ17	2,201.				2,201.	2,201.		0.	2,201.
6	DRAIN FIELD	01/26/06	150DE	15.00	HXL7	3,625.				3,625.	2,662.		214.	2,876.
7	BATHROOM RENOVATIONS	06/01/06	SL	27.50	HM17	1,000.				1,000.	381.		36.	417.
8	HOT WATER HEATER	12/02/08	200DE	7.00	HQ17	550.		275.		275.	275.		0.	275.
9	FLOORING	09/01/08	200DE	7.00	HQ17	631.		316.		315.	315.		0.	315.
20	ROOF	03/17/15	SL	27.50	HM17	3,192.				3,192.	208.		116.	324.
26	RENOVATION	02/18/17	SL	27.50	HM19H	6,906.				6,906.			220.	220.
	TOTAL SCH E DEPRECIATION					86,594.		591.		86,003.	35,955.		3,083.	39,038.
	CURRENT YEAR ACTIVITY													
	BEGINNING BALANCE					79,688.		591.	0.	79,097.	35,955.			38,818.
	ACQUISITIONS					6,906.		0.	0.	6,906.	0.			220.
	DISPOSITIONS					0.		0.	0.	0.	0.			0.
	ENDING BALANCE					86,594.		591.	0.	86,003.	35,955.			39,038.

729111 04-01-17

(D) - Asset disposed

\* ITC, Salvage, Bonus, Commercial Revitalization Deduction, GO Zone

## RESIDENTIAL RENTAL - [REDACTED]

[illegible]

## 2017 DEPRECIATION AND AMORTIZATION REPORT

RESIDENTIAL RENTAL -

**SCHEDULE E- 2**

[illegible]

## Schedule E - Two-Year Comparison Worksheet

2017

Property Name:

RENTAL PROPERTY - [REDACTED]

Description	Tax Year 2016	Tax Year 2017	Increase (Decrease)
<b>INCOME</b>			
RENTS RECEIVED	5,500.	7,150.	1,650.
<b>EXPENSES</b>			
CLEANING AND MAINTENANCE	0.	3,570.	3,570.
INSURANCE	715.	715.	0.
REPAIRS	305.	385.	80.
SUPPLIES	121.	0.	-121.
TAXES	1,092.	1,160.	68.
UTILITIES	31.	33.	2.
SUBTOTAL	2,264.	5,863.	3,599.
DEPRECIATION EXPENSE OR DEPLETION	2,862.	3,083.	221.
TOTAL EXPENSES	5,126.	8,946.	3,820.
INCOME OR (LOSS)	374.	-1,796.	-2,170.
DEDUCTIBLE RENTAL LOSS *	0.	-1,796.	-1,796.
* INCLUDES PASSIVE ACTIVITY LOSS			

## Schedule E - Two-Year Comparison Worksheet

2017

Property Name:

RESIDENTIAL RENTAL -

Description	Tax Year 2016	Tax Year 2017	Increase (Decrease)
<b>INCOME</b>			
RENTS RECEIVED	7,200.	7,200.	0.
<b>EXPENSES</b>			
INSURANCE	806.	806.	0.
TAXES	947.	1,016.	69.
SUBTOTAL	1,753.	1,822.	69.
DEPRECIATION EXPENSE OR DEPLETION	1,469.	1,469.	0.
TOTAL EXPENSES	3,222.	3,291.	69.
INCOME OR (LOSS)	3,978.	3,909.	-69.

ALTERNATIVE MINIMUM TAX DEPRECIATION REPORT

Asset No.	Description	Date Acquired	AMT Method	AMT Life	AMT Cost Or Basis	AMT Accumulated	Regular Depreciation	AMT Depreciation	AMT Adjustment
	RENTAL PROPERTY - [REDACTED]								
1	RENTAL HOUSE	060105	SL	27.50	50,000.	20,983.	1,818.	1,818.	0.
3	AIR CONDITIONER	091505	150DB	15.00	4,800.	3,772.	284.	284.	0.
4	WELL & IMPROVEMENTS	102105	150DB	15.00	6,689.	5,159.	395.	395.	0.
6	DRAIN FIELD	012606	150DB	15.00	3,625.	2,662.	214.	214.	0.
7	BATHROOM RENOVATIONS	060106	SL	27.50	1,000.	380.	36.	36.	0.
20	ROOF	031715	SL	27.50	3,192.	208.	116.	116.	0.
26	RENOVATION	021817	SL	27.50	6,906.	0.	220.	220.	0.
	** SUBTOTAL **				76,212.	33,164.	3,083.	3,083.	0.
	RESIDENTIAL RENTAL - [REDACTED]								
10	HOUSE	080213	SL	27.50	30,194.	3,706.	1,098.	1,098.	0.
12	ROOF	081613	SL	27.50	4,520.	554.	164.	164.	0.
	BATHROOM & KITCHEN								
13	RENOVATIONS	083013	SL	27.50	2,706.	331.	98.	98.	0.
14	AIR CONDITIONER	090614	SL	27.50	3,000.	250.	109.	109.	0.
	** SUBTOTAL **				40,420.	4,841.	1,469.	1,469.	0.
	RESIDENTIAL RENTAL - [REDACTED]								
27	HOUSE	013117	SL	27.50	15,528.	0.	541.	541.	0.
29	ROOF	020817	SL	27.50	3,868.	0.	123.	123.	0.
30	RENOVATION	031517	SL	27.50	21,592.	0.	622.	622.	0.
	** SUBTOTAL **				40,988.	0.	1,286.	1,286.	0.
	*** GRAND TOTAL ***				157,620.	38,005.	5,838.	5,838.	0.

## Shared Responsibility Payment

721636 12-26-17

### To Figure Your Shared Responsibility Payment

- Follow Steps 1 through 5 next.
- Complete Worksheet A or Worksheet B if you are directed to them as you complete Steps 1 through 5.
- Complete the Shared Responsibility Payment Worksheet as directed by Steps 1 through 5 or Worksheets A and B.

#### Step 1 All Filers

1. Can someone claim you as a dependent?

☐ Yes. Stop. You don't owe a shared responsibility payment. Don't check the box on line 6a of Form 1040 or Form 1040A. If you file Form 1040EZ, check the box on line 5.  
☒ No. Continue to line 2

2. Did you, and everyone else in your tax household (see Tax household under *Definitions*, earlier) have qualifying health coverage for every month of 2017?

☒ Yes. Stop. You don't owe a shared responsibility payment. Check the Full-year coverage box on Form 1040, line 61; Form 1040A, line 38; or Form 1040EZ, line 11.  
☐ No. Continue to line 3

\*You can check the Full-year coverage box if you had or adopted a child during the year, or a member of your tax household died during the year, as long as that person had qualifying health care coverage for every month he or she was a member of your tax household.

3. Did you or anyone else in your tax household have qualifying health coverage or qualify for a coverage exemption for any month in 2017?

☐ Yes. Stop. Claim any coverage exemption you qualify for on Form 8965. Skip question 4; go to Worksheet A.  
☐ No. Continue to line 4

4. Did you, or anyone else in your tax household turn 18 during 2017?

☐ Yes. Go to Worksheet A.  
☐ No. Go to Step 2

#### Step 2 Flat Dollar Amount

1. Multiply \$695 by the number of people in your tax household who were at least 18 years old\* ..... 1 \_\_\_\_\_  
\*For purposes of figuring the shared responsibility payment, an individual is considered under age 18 for an entire month if he or she didn't turn 18 before the first day of the month. An individual turns 18 on the anniversary of the day the individual was born.
2. Multiply \$347.50 by the number of people in your tax household who were under age 18 ..... 2 \_\_\_\_\_
3. Add lines 1 and 2 ..... 3 \_\_\_\_\_
4. Enter the smaller of line 3 or \$2,085 here and on line 1 of the Shared Responsibility Payment Worksheet. Go to Step 3 ..... 4 \_\_\_\_\_

#### Step 3 Household Income

1. Enter the amount from Form 1040, line 38; Form 1040A, line 21; or Form 1040EZ, line 4 ..... 1 \_\_\_\_\_
2. Did you receive any tax-exempt interest?  
☐ Yes. Enter the amount from Form 1040, line 8b; Form 1040A, line 8b; or the amount entered in the space to the left of Form 1040EZ, line 2 ..... 2 \_\_\_\_\_  
☐ No. Continue to line 3
3. Did you attach Form 2555 or Form 2555-EZ?  
☐ Yes. Enter the amount from Form 2555, lines 45 and 50; or Form 2555-EZ, line 18 ..... 3 \_\_\_\_\_  
☐ No. Continue to line 4
4. Did you claim any dependents?  
☐ Yes. Continue to line 5  
☐ No. Stop. Add lines 1 through 3. This is your household income. Enter the result on Step 4, line 1
5. Were any of the dependents you claimed required to file a return?  
☐ Yes. Complete questions 1 through 3 for each dependent with a filing requirement for whom you didn't attach Form 8814. Enter the total here ..... 5 \_\_\_\_\_  
☐ No. Add lines 1 through 3. This is your household income. Enter the result on Step 4, line 1
6. Did you attach Form 8814?  
☐ Yes. Continue to line 7  
☐ No. Stop. Add lines 1, 2, 3, and 5. This is your household income. Enter the result on Step 4, line 1
7. Is Form 8814, line 4, more than \$1,050?  
☐ Yes. Add the amount from Form 8814, line 1b, and the smaller of Form 8814, line 4 or 5 ..... 7 \_\_\_\_\_  
☐ No. Enter -0-. Continue to line 8
8. Add lines 1, 2, 3, 5, and 7. This is your household income. Enter the result on Step 4, line 1 ..... 8 \_\_\_\_\_

## Shared Responsibility Payment continued

### Step 4 Percentage Income Amount

1. Enter your household income from Step 3 ..... 1 \_\_\_\_\_
2. Were you or your spouse (if filing jointly) born before January 2, 1953?  
☐ Yes. Skip question 3. Find your filing threshold on the **Filing Thresholds for Most People** chart and enter it both here and on line 4. .... 2 \_\_\_\_\_  
☐ No. Go to question 3.
3. Enter the amount listed below for your filing status. .... 3 \_\_\_\_\_
  - Single - \$10,400
  - Head of household - \$13,400
  - Married filing jointly - \$20,800
  - Married filing separately - \$4,050
  - Qualifying widow(er) - \$16,750
4. Enter the amount from line 2 or 3. .... 4 \_\_\_\_\_
5. Subtract line 4 from line 1 ..... 5 \_\_\_\_\_
6. Is the amount on line 5 zero or less?  
☐ Yes. Stop. You don't owe a shared responsibility payment. Complete Form 8965 by checking the box on line 7.  
☐ No. Continue to line 7.
7. Multiply line 5 by 2.5% (0.025). This is your percentage income amount ..... 7 \_\_\_\_\_
8. Were you required to complete Worksheet A?  
☐ Yes. Go to Worksheet B. Then continue to Step 5  
☐ No. Enter the amount from line 7 above on line 2 of the Shared Responsibility Payment Worksheet and complete line 3 of that worksheet. Then continue to Step 5.

### Step 5 National Average Bronze Plan Premium

1. Were you required to complete Worksheet A?  
☐ Yes. Continue to line 2  
☐ No. Skip question 2; Go to question 3.
2. Multiply \$272\* by the number on Worksheet A, line 8. Enter the result here and on line 4 of the Shared Responsibility Payment Worksheet. Skip question 3 and complete line 5 of the Shared Responsibility Payment Worksheet ..... 2 \_\_\_\_\_  
\*\$272 is the 2017 national average premium for a bronze level health plan available through the Marketplace for one individual for one month.
3. Enter on line 4 of the Shared Responsibility Payment Worksheet, the amount below that corresponds to the total number of people in your tax household. Then complete line 5 of the Shared Responsibility Payment Worksheet.
  - 1 person - \$3,264
  - 2 people - \$6,528
  - 3 people - \$9,792
  - 4 people - \$13,056
  - 5 or more people - \$16,320

## Shared Responsibility Payment Worksheet

Use this worksheet if you are referred here from the Shared Responsibility Payment flowchart or from Worksheet A or B. If everyone in your tax household had either minimum essential coverage or a coverage exemption for every month during 2017, stop here. You don't owe a shared responsibility payment.

### Complete Step 1

1. Enter the flat dollar amount. (From Step 2, question 4 or Worksheet A, line 7) ..... 1 \_\_\_\_\_

### Complete Step 3

2. Enter the percentage income amount. (From Step 4, question 7 or Worksheet B, line 14) ..... 2 \_\_\_\_\_
3. Enter the larger of line 1 or line 2 ..... 3 \_\_\_\_\_

### Complete Step 5

4. Enter the National Average Bronze Plan Premium (From Step 5, question 2 or 3) ..... 4 \_\_\_\_\_
5. Enter the smaller of line 3 or line 4 here and on Form 1040, line 61; Form 1040A, line 38; or Form 1040EZ, line 11.  
This is your shared responsibility payment ..... 5 \_\_\_\_\_

**Passive Activity Loss Limitations**

▶ See separate instructions.

▶ Attach to Form 1040 or Form 1041.

▶ Go to [www.irs.gov/Form8582](http://www.irs.gov/Form8582) for instructions and the latest information.**2017**Attachment  
Sequence No. 88

Name(s) shown on return

Identifying number

**CARLESS J. & [REDACTED] BOATWRIGHT****Part I 2017 Passive Activity Loss** Caution: Complete Worksheets 1, 2, and 3 before completing Part I.

Rental Real Estate Activities With Active Participation (For the definition of active participation, see Special Allowance for Rental Real Estate Activities in the instructions.)

1a Activities with net income (enter the amount from Worksheet 1, column (a))	1a	6,727.	1d	4,931.
b Activities with net loss (enter the amount from Worksheet 1, column (b))	1b	( 1,796 )		
c Prior years' unallowed losses (enter the amount from Worksheet 1, column (c))	1c	( )		
d Combine lines 1a, 1b, and 1c				

**Commercial Revitalization Deductions From Rental Real Estate Activities**

2a Commercial revitalization deductions from Worksheet 2, column (a)	2a	( )	2c	( )
b Prior year unallowed commercial revitalization deductions from Worksheet 2, column (b)	2b	( )		
c Add lines 2a and 2b				

**All Other Passive Activities**

3a Activities with net income (enter the amount from Worksheet 3, column (a))	3a		3d	
b Activities with net loss (enter the amount from Worksheet 3, column (b))	3b	( )		
c Prior years' unallowed losses (enter the amount from Worksheet 3, column (c))	3c	( )		
d Combine lines 3a, 3b, and 3c				

4 Combine lines 1d, 2c, and 3d. If this line is zero or more, stop here and include this form with your return; all losses are allowed, including any prior year unallowed losses entered on line 1c, 2b, or 3c. Report the losses on the forms and schedules normally used	4	4,931.
---	---	--------

- If line 4 is a loss and:
- Line 1d is a loss, go to Part II.
  - Line 2c is a loss (and line 1d is zero or more), skip Part II and go to Part III.
  - Line 3d is a loss (and lines 1d and 2c are zero or more), skip Parts II and III and go to line 15.

**Caution:** If your filing status is married filing separately and you lived with your spouse at any time during the year, do not complete Part II or Part III. Instead, go to line 15.

**Part II Special Allowance for Rental Real Estate Activities With Active Participation**

Note: Enter all numbers in Part II as positive amounts. See instructions for an example.

5 Enter the smaller of the loss on line 1d or the loss on line 4	5	
6 Enter \$150,000. If married filing separately, see instructions	6	
7 Enter modified adjusted gross income, but not less than zero (see instructions)	7	
Note: If line 7 is greater than or equal to line 6, skip lines 8 and 9, enter -0- on line 10. Otherwise, go to line 8.		
8 Subtract line 7 from line 6	8	
9 Multiply line 8 by 50% (0.50). Do not enter more than \$25,000. If married filing separately, see instructions	9	
10 Enter the smaller of line 5 or line 9	10	

If line 2c is a loss, go to Part III. Otherwise, go to line 15.

**Part III Special Allowance for Commercial Revitalization Deductions From Rental Real Estate Activities**

Note: Enter all numbers in Part III as positive amounts. See the example for Part II in the instructions.

11 Enter \$25,000 reduced by the amount, if any, on line 10. If married filing separately, see instructions	11	
12 Enter the loss from line 4	12	
13 Reduce line 12 by the amount on line 10	13	
14 Enter the smallest of line 2c (treated as a positive amount), line 11, or line 13	14	

**Part IV Total Losses Allowed**

15 Add the income, if any, on lines 1a and 3a and enter the total	15	
16 Total losses allowed from all passive activities for 2017. Add lines 10, 14, and 15. See instructions to find out how to report the losses on your tax return	16	



## Noncash Charitable Contributions

▶ Attach to your tax return if you claimed a total deduction  
of over \$500 for all contributed property.▶ Information about Form 8283 and its separate instructions is at [www.irs.gov/form8283](http://www.irs.gov/form8283).

OMB. No. 1545-0908

Attachment  
Sequence No. 155

Name(s) shown on your income tax return

Identifying number

CARLESS J. &amp; [REDACTED] BOATWRIGHT

Note. Figure the amount of your contribution deduction before completing this form. See your tax return instructions.

Section A. Donated Property of \$5,000 or Less and Publicly Traded Securities - List in this section only items (or groups of similar items) for which you claimed a deduction of \$5,000 or less. Also list publicly traded securities even if the deduction is more than \$5,000 (see instructions).

## Part I

Information on Donated Property - If you need more space, attach a statement.

1	(a) Name and address of the donee organization	(b) If donated property is a vehicle, check the box. Also enter the vehicle identification number (unless Form 1098-C is attached)	(c) Description of donated property (For a vehicle, enter the year, make, model, and mileage. For securities, enter the company name and the number of shares.)
A	GOODWILL INDUSTRIES OF N FL 4527 L, JACKSONVILLE, FL 32205	<input type="checkbox"/>	
B	LEE CONLEE HOUSE, INC. PO BOX 2558, PALATKA, FL 32178	<input type="checkbox"/>	
C		<input type="checkbox"/>	
D		<input type="checkbox"/>	
E		<input type="checkbox"/>	

Note. If the amount you claimed as a deduction for an item is \$500 or less, you do not have to complete columns (e), (f), and (g).

	(d) Date of the contribution	(e) Date acquired by donor (mo., yr.)	(f) How acquired by donor	(g) Donor's cost or adjusted basis	(h) Fair market value (see instructions)	(i) Method used to determine the fair market value
A			PURCHASE		650.	THRIFT SHOP VALUE
B			PURCHASE		100.	THRIFT SHOP VALUE
C						
D						
E						

## Part II

Partial Interests and Restricted Use Property - Complete lines 2a through 2e if you gave less than an entire interest in a property listed in Part I. Complete lines 3a through 3c if conditions were placed on a contribution listed in Part I; also attach the required statement (see instructions).

2 a Enter the letter from Part I that identifies the property for which you gave less than an entire interest ▶  
If Part II applies to more than one property, attach a separate statement.b Total amount claimed as a deduction for the property listed in Part I: (1) For this tax year ▶  
(2) For any prior tax years ▶c Name and address of each organization to which any such contribution was made in a prior year (complete only if different from the donee organization above):  
Name of charitable organization (donee)

Address (number, street, and room or suite no.)

City or town, state, and ZIP code

d For tangible property, enter the place where the property is located or kept ▶

e Name of any person, other than the donee organization, having actual possession of the property ▶

3 a Is there a restriction, either temporary or permanent, on the donee's right to use or dispose of the donated property? .....

b Did you give to anyone (other than the donee organization or another organization participating with the donee organization in cooperative fundraising) the right to the income from the donated property or to the possession of the property, including the right to vote donated securities, to acquire the property by purchase or otherwise, or to designate the person having such income, possession, or right to acquire? .....

c Is there a restriction limiting the donated property for a particular use? .....

Yes	No

Form **8867**Department of the Treasury  
Internal Revenue Service**Paid Preparer's Due Diligence Checklist***Earned Income Credit (EIC), American Opportunity Tax Credit (AOTC), Child Tax Credit (CTC),  
and Additional Child Tax Credit (ACTC)*

- ▶ To be completed by preparer and filed with Form 1040, 1040A, 1040EZ, 1040NR, 1040SS, or 1040PR.  
▶ Go to [www.irs.gov/Form8867](http://www.irs.gov/Form8867) for instructions and the latest information.

OMB No. 1545-1629

**2017**Attachment  
Sequence No. 70

Taxpayer name(s) shown on return

CARLESS J. &amp; [REDACTED] BOATWRIGHT

Taxpayer Identification number

Enter preparer's name and PTIN

JOHN D. ROWE, CPA

P00099553

**Part I Due Diligence Requirements**

Please check the appropriate box for the credit(s) claimed on this return and complete the related Parts I-IV for the credit(s) claimed (check all that apply).

EIC  
☐CTC/ACTC  
☒AOTC  
☐

1 Did you complete the return based on information for tax year 2017 provided by the taxpayer or reasonably obtained by you? .....

☒ Yes ☐ No

2 Did you complete the applicable EIC and/or CTC/ACTC worksheets found in the Form 1040, 1040A, 1040EZ, 1040SS, 1040PR, or 1040NR instructions, and/or the AOTC worksheet found in the Form 8863 instructions, or your own worksheet(s) that provides the same information, and all related forms and schedules for each credit claimed? .....

☒ Yes ☐ No3 Did you satisfy the knowledge requirement? To meet the knowledge requirement, you must do both of the following:  
• Interview the taxpayer, ask questions, and document the taxpayer's responses to determine that the taxpayer is eligible to claim the credit(s)  
• Review information to determine that the taxpayer is eligible to claim the credit(s) and for what amount .....☒ Yes ☐ No

4 Did any information provided by the taxpayer, a third party, or reasonably known to you, in connection with preparing the return, appear to be incorrect, incomplete, or inconsistent? (If "Yes," answer questions 4a and 4b. If "No," go to question 5.) .....

☐ Yes ☒ No

a Did you make reasonable inquiries to determine the correct, complete, and consistent information? .....

☐ Yes ☐ No

b Did you document your inquiries? (Documentation should include the questions you asked, whom you asked, when you asked, the information that was provided, and the impact the information had on your preparation of the return.) .....

☐ Yes ☐ No5 Did you satisfy the record retention requirement? To meet the record retention requirement, you must keep a copy of your documentation referenced in 4b, a copy of this Form 8867, a copy of applicable worksheets, a record of how, when, and from whom the information used to prepare Form 8867 and worksheet(s) was obtained, and a copy of any document(s) provided by the taxpayer that you relied on to determine eligibility or to compute the amount for the credit(s) .....  
List those documents, if any, that you relied on.☒ Yes ☐ No

6 Did you ask the taxpayer whether he/she could provide documentation to substantiate eligibility for and the amount of the credit(s) claimed on the return if his/her return is selected for audit? .....

☒ Yes ☐ No7 Did you ask the taxpayer if any of these credits were disallowed or reduced in a previous year? .....  
(If credits were disallowed or reduced, go to question 7a; if not, go to question 8.)☒ Yes ☐ No

a Did you complete the required recertification Form 8862? .....

☐ Yes ☐ No ☐ N/A

8 If the taxpayer is reporting self-employment income, did you ask questions to prepare a complete and correct Form 1040, Schedule C? .....

☐ Yes ☐ No ☒ N/A

LHA For Paperwork Reduction Act Notice, see separate instructions.

Form 8867 (2017)

**Part II** Due Diligence Questions for Returns Claiming EIC (If the return does not claim EIC, go to Part III.)

	EIC	CTC/ACTC	AOTC
<b>9a</b> Have you determined that this taxpayer is, in fact, eligible to claim the EIC for the number of children for whom the EIC is claimed, or to claim EIC if the taxpayer has no qualifying child? (Skip 9b and 9c if the taxpayer is claiming EIC and does not have a qualifying child.)	<input type="checkbox"/> Yes <input type="checkbox"/> No		
<b>b</b> Did you explain to the taxpayer that he/she may not claim the EIC if the taxpayer has not lived with the child for over half the year, even if the taxpayer has supported the child?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
<b>c</b> Did you explain to the taxpayer the rules about claiming the EIC when a child is the qualifying child of more than one person (tie-breaker rules)?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A		

**Part III** Due Diligence Questions for Returns Claiming CTC and/or ACTC (If the return does not claim CTC or ACTC, go to Part IV.)

<b>10a</b> Did all children for whom the taxpayer is claiming the CTC/ACTC reside with the taxpayer? (If "Yes," go to question 10c; if "No," go to question 10b.)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>b</b> Did you ask if there is an active Form 8332, Release/Revocation of Claim to Exemption for Child by Custodial Parent, or a similar statement in place and, if applicable, did you attach it to the return?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
<b>c</b> Have you determined that the taxpayer has not released the claim to another person?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A

**Part IV** Due Diligence Questions for Returns Claiming AOTC (If the return does not claim AOTC, go to Part V.)

<b>11</b> Did the taxpayer provide substantiation such as a Form 1098-T and/or receipts for the qualified tuition and related expenses for the claimed AOTC?	<input type="checkbox"/> Yes <input type="checkbox"/> No
--	--

**Part V** Credit Eligibility Certification

- You have complied with all due diligence requirements with respect to the credits claimed on the return of the taxpayer identified above if you:
- Interview the taxpayer, ask adequate questions, document the taxpayer's responses on the return or in your notes, review adequate information to determine if the taxpayer is eligible to claim the credit(s) and in what amount(s);
  - Complete this Form 8867 truthfully and accurately and complete the actions described in this checklist for all credits claimed;
  - Submit Form 8867 in the manner required; and
  - Keep all five of the following records for 3 years from the latest of the dates specified in the Form 8867 instructions under *Document Retention*.
    - A copy of Form 8867,
    - The applicable worksheet(s) or your own worksheet(s) for any credits claimed,
    - Copies of any taxpayer documents you may have relied upon to determine eligibility for and the amount of the credit(s),
    - A record of how, when, and from whom the information used to prepare this form and worksheet(s) was obtained, and
    - A record of any additional questions you may have asked to determine eligibility for and amount of the credits, and the taxpayer's answers.
- If you have not complied with all due diligence requirements for all credits claimed, you may have to pay a \$510 penalty for each credit for which you have failed to comply.

<b>12</b> Do you certify that all of the answers on this Form 8867 are, to the best of your knowledge, true, correct, and complete?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
---	---

Form **4562**Department of the Treasury  
Internal Revenue Service (99)  
Name(s) shown on return**Depreciation and Amortization**  
(Including Information on Listed Property)▶ Attach to your tax return. **SCHEDULE E- 1**▶ Go to [www.irs.gov/Form4562](http://www.irs.gov/Form4562) for instructions and the latest information.

OMB No. 1545-0172

**2017**Attachment  
Sequence No. 179

Business or activity to which this form relates

Identifying number

**RENTAL PROPERTY -****CARLESS J. & BOATWRIGHT****Part I Election To Expense Certain Property Under Section 179** Note: If you have any listed property, complete Part V before you complete Part I.

1	Maximum amount (see instructions)	1
2	Total cost of section 179 property placed in service (see instructions)	2
3	Threshold cost of section 179 property before reduction in limitation	3
4	Reduction in limitation. Subtract line 3 from line 2. If zero or less, enter -0-	4
5	Dollar limitation for tax year. Subtract line 4 from line 1. If zero or less, enter -0-. If married filing separately, see instructions	5
6	(a) Description of property	(b) Cost (business use only)
		(c) Elected cost
7	Listed property. Enter the amount from line 29	7
8	Total elected cost of section 179 property. Add amounts in column (c), lines 6 and 7	8
9	Tentative deduction. Enter the smaller of line 5 or line 8	9
10	Carryover of disallowed deduction from line 13 of your 2016 Form 4562	10
11	Business income limitation. Enter the smaller of business income (not less than zero) or line 5	11
12	Section 179 expense deduction. Add lines 9 and 10, but don't enter more than line 11	12
13	Carryover of disallowed deduction to 2018. Add lines 9 and 10, less line 12	13

Note: Don't use Part II or Part III below for listed property. Instead, use Part V.

**Part II Special Depreciation Allowance and Other Depreciation (Don't include listed property.)**

14	Special depreciation allowance for qualified property (other than listed property) placed in service during the tax year	14
15	Property subject to section 168(f)(1) election	15
16	Other depreciation (including ACRS)	16

**Part III MACRS Depreciation (Don't include listed property.) (See instructions.)****Section A**

17	MACRS deductions for assets placed in service in tax years beginning before 2017	17	2,863.
18	If you are electing to group any assets placed in service during the tax year into one or more general asset accounts, check here		

**Section B - Assets Placed in Service During 2017 Tax Year Using the General Depreciation System**

(a) Classification of property	(b) Month and year placed in service	(c) Basis for depreciation (business/investment use only - see instructions)	(d) Recovery period	(e) Convention	(f) Method	(g) Depreciation deduction
19a 3-year property						
b 5-year property						
c 7-year property						
d 10-year property						
e 15-year property						
f 20-year property						
g 25-year property			25 yrs.		S/L	
h Residential rental property	2 / 17	6,906.	27.5 yrs.	MM	S/L	220.
	/		27.5 yrs.	MM	S/L	
i Nonresidential real property	/		39 yrs.	MM	S/L	
	/			MM	S/L	

**Section C - Assets Placed in Service During 2017 Tax Year Using the Alternative Depreciation System**

20a Class life					S/L	
b 12-year			12 yrs.		S/L	
c 40-year	/		40 yrs.	MM	S/L	

**Part IV Summary (See instructions.)**

21	Listed property. Enter amount from line 28	21	
22	Total. Add amounts from line 12, lines 14 through 17, lines 19 and 20 in column (g), and line 21. Enter here and on the appropriate lines of your return. Partnerships and S corporations - see instr.	22	3,083.
23	For assets shown above and placed in service during the current year, enter the portion of the basis attributable to section 263A costs	23	

**Part V** Listed Property (Include automobiles, certain other vehicles, certain aircraft, certain computers, and property used for entertainment, recreation, or amusement.)

**Note:** For any vehicle for which you are using the standard mileage rate or deducting lease expense, complete only 24a, 24b, columns (a) through (c) of Section A, all of Section B, and Section C if applicable.

**Section A - Depreciation and Other Information** (Caution: See the instructions for limits for passenger automobiles.)

24a Do you have evidence to support the business/investment use claimed? <input type="checkbox"/> Yes <input type="checkbox"/> No				24b If "Yes," is the evidence written? <input type="checkbox"/> Yes <input type="checkbox"/> No				
(a) Type of property (list vehicles first)	(b) Date placed in service	(c) Business/ investment use percentage	(d) Cost or other basis	(e) Basis for depreciation (business/investment use only)	(f) Recovery period	(g) Method/ Convention	(h) Depreciation deduction	(i) Elected section 179 cost
25 Special depreciation allowance for qualified listed property placed in service during the tax year and used more than 50% in a qualified business use							25	
26 Property used more than 50% in a qualified business use:								
	:	:	%					
	:	:	%					
	:	:	%					
27 Property used 50% or less in a qualified business use:								
	:	:	%			S/L -		
	:	:	%			S/L -		
	:	:	%			S/L -		
28 Add amounts in column (h), lines 25 through 27. Enter here and on line 21, page 1							28	
29 Add amounts in column (i), line 26. Enter here and on line 7, page 1								29

**Section B - Information on Use of Vehicles**

Complete this section for vehicles used by a sole proprietor, partner, or other "more than 5% owner," or related person. If you provided vehicles to your employees, first answer the questions in Section C to see if you meet an exception to completing this section for those vehicles.

	(a) Vehicle		(b) Vehicle		(c) Vehicle		(d) Vehicle		(e) Vehicle		(f) Vehicle	
30 Total business/investment miles driven during the year (don't include commuting miles)												
31 Total commuting miles driven during the year												
32 Total other personal (noncommuting) miles driven												
33 Total miles driven during the year. Add lines 30 through 32												
34 Was the vehicle available for personal use during off-duty hours?	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No
35 Was the vehicle used primarily by a more than 5% owner or related person?												
36 Is another vehicle available for personal use?												

**Section C - Questions for Employers Who Provide Vehicles for Use by Their Employees**

Answer these questions to determine if you meet an exception to completing Section B for vehicles used by employees who aren't more than 5% owners or related persons.

37 Do you maintain a written policy statement that prohibits all personal use of vehicles, including commuting, by your employees?	Yes	No
38 Do you maintain a written policy statement that prohibits personal use of vehicles, except commuting, by your employees? See the instructions for vehicles used by corporate officers, directors, or 1% or more owners		
39 Do you treat all use of vehicles by employees as personal use?		
40 Do you provide more than five vehicles to your employees, obtain information from your employees about the use of the vehicles, and retain the information received?		
41 Do you meet the requirements concerning qualified automobile demonstration use?		

**Note:** If your answer to 37, 38, 39, 40, or 41 is "Yes," don't complete Section B for the covered vehicles.

**Part VI** Amortization

(a) Description of costs	(b) Date amortization begins	(c) Amortizable amount	(d) Code section	(e) Amortization period or percentage	(f) Amortization for this year
42 Amortization of costs that begins during your 2017 tax year:					
	:	:			
	:	:			
43 Amortization of costs that began before your 2017 tax year					43
44 Total. Add amounts in column (f). See the instructions for where to report					44

Form **4562**Department of the Treasury  
Internal Revenue Service (99)  
Name(s) shown on return**Depreciation and Amortization**  
(Including Information on Listed Property)▶ Attach to your tax return. **SCHEDULE E- 3**▶ Go to [www.irs.gov/Form4562](http://www.irs.gov/Form4562) for instructions and the latest information.

OMB No. 1545-0172

**2017**Attachment  
Sequence No. **179**

Business or activity to which this form relates

Identifying number

**RESIDENTIAL RENTAL -****CARLESS J. & BOATWRIGHT****Part I Election To Expense Certain Property Under Section 179** Note: If you have any listed property, complete Part V before you complete Part I.

1	Maximum amount (see instructions)	1	
2	Total cost of section 179 property placed in service (see instructions)	2	
3	Threshold cost of section 179 property before reduction in limitation	3	
4	Reduction in limitation. Subtract line 3 from line 2. If zero or less, enter -0-	4	
5	Dollar limitation for tax year. Subtract line 4 from line 1. If zero or less, enter -0-. If married filing separately, see instructions	5	
6	(a) Description of property	(b) Cost (business use only)	(c) Elected cost
7	Listed property. Enter the amount from line 29	7	
8	Total elected cost of section 179 property. Add amounts in column (c), lines 6 and 7	8	
9	Tentative deduction. Enter the smaller of line 5 or line 8	9	
10	Carryover of disallowed deduction from line 13 of your 2016 Form 4562	10	
11	Business income limitation. Enter the smaller of business income (not less than zero) or line 5	11	
12	Section 179 expense deduction. Add lines 9 and 10, but don't enter more than line 11	12	
13	Carryover of disallowed deduction to 2018. Add lines 9 and 10, less line 12	13	

Note: Don't use Part II or Part III below for listed property. Instead, use Part V.

**Part II Special Depreciation Allowance and Other Depreciation (Don't include listed property.)**

14	Special depreciation allowance for qualified property (other than listed property) placed in service during the tax year	14	
15	Property subject to section 168(f)(1) election	15	
16	Other depreciation (including ACRS)	16	

**Part III MACRS Depreciation (Don't include listed property.) (See instructions.)****Section A**

17	MACRS deductions for assets placed in service in tax years beginning before 2017	17	
18	If you are electing to group any assets placed in service during the tax year into one or more general asset accounts, check here		

**Section B - Assets Placed in Service During 2017 Tax Year Using the General Depreciation System**

(a) Classification of property	(b) Month and year placed in service	(c) Basis for depreciation (business/investment use only - see instructions)	(d) Recovery period	(e) Convention	(f) Method	(g) Depreciation deduction
19a 3-year property						
b 5-year property						
c 7-year property						
d 10-year property						
e 15-year property						
f 20-year property						
g 25-year property			25 yrs.		S/L	
h Residential rental property	/	STATEMENT 5	27.5 yrs.	MM	S/L	1,286.
i Nonresidential real property	/		39 yrs.	MM	S/L	

**Section C - Assets Placed in Service During 2017 Tax Year Using the Alternative Depreciation System**

20a Class life				S/L	
b 12-year			12 yrs.	S/L	
c 40-year	/		40 yrs.	MM	S/L

**Part IV Summary (See instructions.)**

21	Listed property. Enter amount from line 28	21	
22	Total. Add amounts from line 12, lines 14 through 17, lines 19 and 20 in column (g), and line 21. Enter here and on the appropriate lines of your return. Partnerships and S corporations - see instr.	22	1,286.
23	For assets shown above and placed in service during the current year, enter the portion of the basis attributable to section 263A costs	23	

**Part V** Listed Property (Include automobiles, certain other vehicles, certain aircraft, certain computers, and property used for entertainment, recreation, or amusement.)

**Note:** For any vehicle for which you are using the standard mileage rate or deducting lease expense, complete only 24a, 24b, columns (a) through (c) of Section A, all of Section B, and Section C if applicable.

**Section A - Depreciation and Other Information** (Caution: See the instructions for limits for passenger automobiles.)

24a Do you have evidence to support the business/investment use claimed?		Yes		No		24b If "Yes," is the evidence written?		Yes		No	
(a) Type of property (list vehicles first)	(b) Date placed in service	(c) Business/ investment use percentage	(d) Cost or other basis	(e) Basis for depreciation (business/investment use only)	(f) Recovery period	(g) Method/ Convention	(h) Depreciation deduction	(i) Elected section 179 cost			
25 Special depreciation allowance for qualified listed property placed in service during the tax year and used more than 50% in a qualified business use							25				
26 Property used more than 50% in a qualified business use:											
	:	:	%								
	:	:	%								
	:	:	%								
27 Property used 50% or less in a qualified business use:											
	:	:	%			S/L -					
	:	:	%			S/L -					
	:	:	%			S/L -					
28 Add amounts in column (h), lines 25 through 27. Enter here and on line 21, page 1							28				
29 Add amounts in column (i), line 26. Enter here and on line 7, page 1								29			

**Section B - Information on Use of Vehicles**

Complete this section for vehicles used by a sole proprietor, partner, or other "more than 5% owner," or related person. If you provided vehicles to your employees, first answer the questions in Section C to see if you meet an exception to completing this section for those vehicles.

	(a) Vehicle		(b) Vehicle		(c) Vehicle		(d) Vehicle		(e) Vehicle		(f) Vehicle	
30 Total business/investment miles driven during the year (don't include commuting miles)												
31 Total commuting miles driven during the year												
32 Total other personal (noncommuting) miles driven												
33 Total miles driven during the year. Add lines 30 through 32												
34 Was the vehicle available for personal use during off-duty hours?	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No
35 Was the vehicle used primarily by a more than 5% owner or related person?												
36 Is another vehicle available for personal use?												

**Section C - Questions for Employers Who Provide Vehicles for Use by Their Employees**

Answer these questions to determine if you meet an exception to completing Section B for vehicles used by employees who aren't more than 5% owners or related persons.

37 Do you maintain a written policy statement that prohibits all personal use of vehicles, including commuting, by your employees?	Yes	No
38 Do you maintain a written policy statement that prohibits personal use of vehicles, except commuting, by your employees? See the instructions for vehicles used by corporate officers, directors, or 1% or more owners		
39 Do you treat all use of vehicles by employees as personal use?		
40 Do you provide more than five vehicles to your employees, obtain information from your employees about the use of the vehicles, and retain the information received?		
41 Do you meet the requirements concerning qualified automobile demonstration use?		

**Note:** If your answer to 37, 38, 39, 40, or 41 is "Yes," don't complete Section B for the covered vehicles.

**Part VI** Amortization

(a) Description of costs	(b) Date amortization begins	(c) Amortizable amount	(d) Code section	(e) Amortization period or percentage	(f) Amortization for this year
42 Amortization of costs that begins during your 2017 tax year:					
	:	:			
	:	:			
43 Amortization of costs that began before your 2017 tax year					43
44 Total. Add amounts in column (f). See the instructions for where to report					44

SCHEDULE A	MORTGAGE INTEREST AND POINTS REPORTED ON FORM 1098	STATEMENT	1
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DESCRIPTION	AMOUNT
WELLS FARGO BANK N A, PO BOX 14411, DES MOINES, IA 50306-3411	8,681.
TOTAL TO SCHEDULE A, LINE 10	8,681.

SCHEDULE A	REAL ESTATE TAXES	STATEMENT	2
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DESCRIPTION	AMOUNT
[REDACTED]	238.
WELLS FARGO BANK N A	1,615.
TOTAL TO SCHEDULE A, LINE 6	1,853.

FORM 8582	ACTIVE RENTAL OF REAL ESTATE - WORKSHEET 1	STATEMENT	3
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NAME OF ACTIVITY	CURRENT YEAR		PRIOR YEAR UNALLOWED LOSS	OVERALL GAIN OR LOSS	
	NET INCOME	NET LOSS		GAIN	LOSS
RENTAL PROPERTY - [REDACTED]					
[REDACTED]	0.	-1,796.			-1,796.
RESIDENTIAL RENTAL - [REDACTED]					
[REDACTED]	3,909.	0.		3,909.	
RESIDENTIAL RENTAL - [REDACTED]					
[REDACTED]	2,818.	0.		2,818.	
TOTALS	6,727.	-1,796.		6,727.	-1,796.

FORM 8582

## SUMMARY OF PASSIVE ACTIVITIES

STATEMENT 4

R R E A -	NAME	FORM OR SCHEDULE	GAIN/LOSS	PRIOR YEAR C/O	NET GAIN/LOSS	UNALLOWED LOSS	ALLOWED LOSS
X	RENTAL PROPERTY -	SCH E					
	[REDACTED]		-1,796.		-1,796.		1,796.
X	RESIDENTIAL	SCH E					
	RENTAL - [REDACTED]		3,909.		3,909.		
X	RESIDENTIAL	SCH E					
	RENTAL - [REDACTED]		2,818.		2,818.		
TOTALS			4,931.		4,931.		1,796.
PRIOR YEAR CARRYOVERS ALLOWED DUE TO CURRENT YEAR NET ACTIVITY INCOME							
TOTAL							1,796.

FORM 4562

PART III - RESIDENTIAL RENTAL PROPERTY

STATEMENT 5

(A) DESCRIPTION OF PROPERTY	(B) MO/YR	(C) BASIS	(G) DEDUCTION
HOUSE	1/17	15,528.	541.
ROOF	2/17	3,868.	123.
RENOVATION	3/17	21,592.	622.
TOTAL TO FORM 4562, PART III, LINE 19H		40,988.	1,286.

<b>Form</b>	<b>1040</b>	Department of the Treasury - Internal Revenue Service <b>U.S. Individual Income Tax Return</b>	(99)	<b>2018</b>	OMB No. 1545-0074	IRS Use Only - Do not write or staple in this space.																								
Filing status: <input type="checkbox"/> Single <input checked="" type="checkbox"/> Married filing jointly <input type="checkbox"/> Married filing separately <input type="checkbox"/> Head of household <input type="checkbox"/> Qualifying widow(er)																														
Your first name and initial <b>CARLESS J.</b>			Last name <b>BOATWRIGHT</b>		Your social security number [REDACTED]																									
Your standard deduction:		<input type="checkbox"/> Someone can claim you as a dependent	<input type="checkbox"/> You were born before January 2, 1954		<input type="checkbox"/> You are blind																									
If joint return, spouse's first name and initial [REDACTED]			Last name <b>BOATWRIGHT</b>		Spouse's social security number [REDACTED]																									
Spouse standard deduction:		<input type="checkbox"/> Someone can claim your spouse as a dependent	<input type="checkbox"/> Spouse was born before January 2, 1954		<input checked="" type="checkbox"/> Full-year health care coverage or exempt (see inst.)																									
<input type="checkbox"/> Spouse is blind		<input type="checkbox"/> Spouse itemizes on a separate return or you were dual-status alien																												
Home address (number and street). If you have a P.O. box, see instructions. [REDACTED]					Apt. no.	Presidential Election Campaign. (see inst.) <input type="checkbox"/> You <input type="checkbox"/> Spouse																								
City, town or post office, state, and ZIP code. If you have a foreign address, attach Schedule 6. [REDACTED]						If more than four dependents, see inst. and <input checked="" type="checkbox"/> here <input type="checkbox"/>																								
<b>Dependents (see instructions):</b> <table border="1" style="width:100%; border-collapse: collapse;"> <thead> <tr> <th style="width:30%;">(1) First name</th> <th style="width:20%;">Last name</th> <th style="width:15%;">(2) Social security number</th> <th style="width:15%;">(3) Relationship to you</th> <th style="width:10%;">(4) <input checked="" type="checkbox"/> If qualifies for (see inst.): Child tax credit</th> <th style="width:10%;">Credit for other dependents</th> </tr> </thead> <tbody> <tr> <td>[REDACTED]</td> <td>[REDACTED]</td> <td>[REDACTED]</td> <td>DAUGHTER</td> <td><input checked="" type="checkbox"/></td> <td></td> </tr> <tr> <td>[REDACTED]</td> <td>[REDACTED]</td> <td>[REDACTED]</td> <td>DAUGHTER</td> <td><input checked="" type="checkbox"/></td> <td></td> </tr> <tr> <td>[REDACTED]</td> <td>[REDACTED]</td> <td>[REDACTED]</td> <td>SON</td> <td><input checked="" type="checkbox"/></td> <td></td> </tr> </tbody> </table>							(1) First name	Last name	(2) Social security number	(3) Relationship to you	(4) <input checked="" type="checkbox"/> If qualifies for (see inst.): Child tax credit	Credit for other dependents	[REDACTED]	[REDACTED]	[REDACTED]	DAUGHTER	<input checked="" type="checkbox"/>		[REDACTED]	[REDACTED]	[REDACTED]	DAUGHTER	<input checked="" type="checkbox"/>		[REDACTED]	[REDACTED]	[REDACTED]	SON	<input checked="" type="checkbox"/>	
(1) First name	Last name	(2) Social security number	(3) Relationship to you	(4) <input checked="" type="checkbox"/> If qualifies for (see inst.): Child tax credit	Credit for other dependents																									
[REDACTED]	[REDACTED]	[REDACTED]	DAUGHTER	<input checked="" type="checkbox"/>																										
[REDACTED]	[REDACTED]	[REDACTED]	DAUGHTER	<input checked="" type="checkbox"/>																										
[REDACTED]	[REDACTED]	[REDACTED]	SON	<input checked="" type="checkbox"/>																										
<b>Sign Here</b> Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.																														
Joint return? See instructions. Keep a copy for your records.		Your signature _____		Date _____		Your occupation _____																								
		Spouse's signature. If a joint return, both must sign. _____		Date _____		Spouse's occupation _____																								
If the IRS sent you an Identity Protection PIN, enter it here _____		If the IRS sent you an Identity Protection PIN, enter it here _____																												
<b>Paid Preparer Use Only</b>		Preparer's name <b>JOHN D. ROWE, CPA</b>	Preparer's signature <b>JOHN D. ROWE, CPA</b>	PTIN <b>P00099553</b>	Firm's EIN <b>72-1396621</b>	Check if: <input checked="" type="checkbox"/> 3rd Party Designee <input type="checkbox"/> Self-employed																								
Firm's name <b>CARR, RIGGS &amp; INGRAM, LLC</b>				Phone no. <b>386.325.4561</b>																										
Firm's address <b>906 SOUTH SR 19 PALATKA, FL 32177</b>																														

LHA For Disclosure, Privacy Act, and Paperwork Reduction Act Notice, see separate instructions.

Form 1040 (2018)

1		Wages, salaries, tips, etc. Attach Form(s) W-2	STMT 1	1	150,657.
2a		Tax-exempt interest	2a	2b	46.
3a		Qualified dividends	3a	3b	
4a		IRAs, pensions, and annuities	4a	4b	
5a		Social security benefits	5a	5b	
6		Total income. Add lines 1 through 5. Add any amount from Schedule 1, line 22	7,963.	6	158,666.
7		Adjusted gross income. If you have no adjustments to income, enter the amount from line 6; otherwise, subtract Schedule 1, line 36, from line 6		7	158,666.
8		Standard deduction or itemized deductions (from Schedule A)		8	24,000.
9		Qualified business income deduction (see instructions)		9	
10		Taxable income. Subtract lines 8 and 9 from line 7. If zero or less, enter -0-		10	134,666.
11		a Tax (see inst) 21,506. (check if any from: 1 Form 8814 2 Form 4972 3 )		11	21,506.
12		b Add any amount from Schedule 2 and check here		12	6,000.
13		a Child tax credit/credit for other dependents 6,000. b Add any amount from Sch. 3 and check here		13	15,506.
14		Subtract line 12 from line 11. If zero or less, enter -0-		14	
15		Other taxes. Attach Schedule 4		15	15,506.
16		Total tax. Add lines 13 and 14		16	19,780.
17		Refundable credits: a EIC (see inst.) b Sch 8812 c Form 8863		17	
18		Add any amount from Schedule 5		18	19,780.
19		Add lines 16 and 17. These are your total payments		19	4,274.
20a		If line 18 is more than line 15, subtract line 15 from line 18. This is the amount you overpaid		20a	4,274.
21		Amount of line 19 you want refunded to you. If Form 8888 is attached, check here			
22		b Routing number [REDACTED] c Type: <input checked="" type="checkbox"/> Checking <input type="checkbox"/> Savings			
23		d Account number [REDACTED]			
24		Amount of line 19 you want applied to your 2019 estimated tax	21		
25		Amount you owe. Subtract line 18 from line 15. For details on how to pay, see instructions		22	
26		Estimated tax penalty (see instructions)	23		

Go to [www.irs.gov/Form1040](http://www.irs.gov/Form1040) for instructions and the latest information.

Form 1040 (2018)

**SCHEDULE 1**  
**(Form 1040)**

Department of the Treasury  
Internal Revenue Service

**Additional Income and Adjustments to Income**

▶ Attach to Form 1040.

▶ Go to [www.irs.gov/Form1040](http://www.irs.gov/Form1040) for instructions and the latest information.

OMB No. 1545-0074

**2018**  
Attachment  
Sequence No. 01

Name(s) shown on Form 1040

**CARLESS J. & [REDACTED] BOATWRIGHT**

Your social security number

<b>Additional Income</b>	1-9b	Reserved .....	1-9b	[REDACTED]
	10	Taxable refunds, credits, or offsets of state and local income taxes .....	10	
	11	Alimony received .....	11	
	12	Business income or (loss). Attach Schedule C or C-EZ .....	12	
	13	Capital gain or (loss). Attach Schedule D if required. If not required, check here ▶ <input type="checkbox"/>	13	
	14	Other gains or (losses). Attach Form 4797 .....	14	
	15a	Reserved .....	15b	
	16a	Reserved .....	16b	
	17	Rental real estate, royalties, partnerships, S corporations, trusts, etc. Attach Schedule E .....	17	7,963.
	18	Farm income or (loss). Attach Schedule F .....	18	
	19	Unemployment compensation .....	19	
	20a	Reserved .....	20b	
	21	Other income. List type and amount ▶ .....	21	
22	Combine the amounts in the far right column. If you don't have any adjustments to income, enter here and include on Form 1040, line 6. Otherwise, go to line 23 .....	22	7,963.	
<b>Adjustments to Income</b>	23	Educator expenses .....	23	
	24	Certain business expenses of reservists, performing artists, and fee-basis government officials. Attach Form 2106 .....	24	
	25	Health savings account deduction. Attach Form 8889 .....	25	
	26	Moving expenses for members of the Armed Forces. Attach Form 3903 .....	26	
	27	Deductible part of self-employment tax. Attach Schedule SE ...	27	
	28	Self-employed SEP, SIMPLE, and qualified plans .....	28	
	29	Self-employed health insurance deduction .....	29	
	30	Penalty on early withdrawal of savings .....	30	
	31a	Alimony paid b Recipient's SSN ▶ .....	31a	
	32	IRA deduction .....	32	
	33	Student loan interest deduction .....	33	
	34	Reserved .....	34	
	35	Reserved .....	35	
	36	Add lines 23 through 35 .....	36	

LHA For Paperwork Reduction Act Notice, see your tax return instructions.

Schedule 1 (Form 1040) 2018

# **Child Tax Credit and Credit for Other Dependents Worksheet** (keep for your records)

Name(s): First **CARLESS J. &** Last **BOATWRIGHT** Your SSN

## **Part 1**

1. Number of qualifying children under age 17 with the required social security number: 3 X \$2,000. Enter the result. 1 6,000.
2. Number of other dependents, including qualifying children who are not under 17 or who do not have the required social security number:  X \$500. Enter the result. 2
3. Add lines 1 and 2 3 6,000.
4. Enter the amount from Form 1040, line 7 or Form 1040NR, line 37. 4 158,666.
5. 1040 filers: Enter the total of any-
  - Exclusion of income from Puerto Rico, and
  - Amounts from Form 2555, lines 45 and 50; Form 2555-EZ, line 18; and Form 4563, line 15.
 1040NR filers: Enter -0-. 5 0.
6. Add lines 4 and 5. Enter the total. 6 158,666.
7. Enter the amount shown below for your filing status.
  - Married filing jointly - \$400,000
  - All other filing statuses - \$200,0007 400,000.
8. Is the amount on line 6 more than the amount on line 7?
  - ☒ No. Leave line 8 blank. Enter -0- on line 9.
  - ☐ Yes. Subtract line 7 from line 6. 8   
If the result is not a multiple of \$1,000, increase it to the next multiple of \$1,000 (for example, increase \$425 to \$1,000, increase \$1,025 to \$2,000, etc).
9. Multiply the amount on line 8 by 5% (.05). Enter the result. 9 0.
10. Is the amount on line 3 more than the amount on line 9?
  - ☐ No. **STOP**  
You cannot take the child tax credit or credit for other dependents on Form 1040, line 12a, or Form 1040NR, line 49. You also cannot take the additional child tax credit.
  - ☒ Yes. Subtract line 9 from line 3. Enter the result. 10 6,000.

## **Part 2**

11. Enter the amount from Form 1040, line 11 or Form 1040NR, line 45. 11 21,506.
12. 1040 filers: Enter the total of the amounts from Schedule 3, lines 48 through 51.\*  
1040NR filers: Enter the total of the amounts from lines 46 through 48.\* 12
13. Subtract line 12 from line 11 13 21,506.
14. Are you claiming any of the following credits?
  - Residential energy efficient property credit, Form 5695, Part I.
  - Mortgage interest credit, Form 8396
  - Adoption credit, Form 8839
  - District of Columbia first-time homebuyer credit, Form 8859☒ No. Enter -0-. 14 0.  
☐ Yes. If you are filing Form 2555 or 2555-EZ, enter -0-. Otherwise, complete the Line 14 Worksheet to figure the amount to enter here.
15. Subtract line 14 from line 13. Enter the result. 15 21,506.
16. Is the amount on line 10 of this worksheet more than the amount on line 15?
  - ☒ No. Enter the amount from line 10. 16 6,000.
  - ☐ Yes. Enter the amount from line 15. 16

\* Also include amounts from:  
Form 5695, line 30  
Form 8910, line 15  
Form 8936, line 23  
Schedule R, line 22

**SCHEDULE B**  
(Form 1040)

Department of the Treasury  
Internal Revenue Service (99)

**Interest and Ordinary Dividends**

Go to [www.irs.gov/ScheduleB](http://www.irs.gov/ScheduleB) for instructions and the latest information.

Attach to Form 1040.

OMB No. 1545-0074

**2018**  
Attachment  
Sequence No. 08

Name(s) shown on return

Your social security number

CARLESS J. & BOATWRIGHT

**Part I**

**Interest**

- 1 List name of payer. If any interest is from a seller-financed mortgage and the buyer used the property as a personal residence, see the instructions and list this interest first. Also, show that buyer's social security number and address
- CAPITAL CITY BANK

Amount

46.

Note: If you received a Form 1099-INT, Form 1099-OID, or substitute statement from a brokerage firm, list the firm's name as the payer and enter the total interest shown on that form.

- 2 Add the amounts on line 1
- 3 Excludable interest on series EE and I U.S. savings bonds issued after 1989. Attach Form 8815
- 4 Subtract line 3 from line 2. Enter the result here and on Form 1040, line 2b

1

2

3

4

46.

46.

Note: If line 4 is over \$1,500, you must complete Part III.

Amount

**Part II**

**Ordinary Dividends**

- 5 List name of payer

5

Note: If you received a Form 1099-DIV or substitute statement from a brokerage firm, list the firm's name as the payer and enter the ordinary dividends shown on that form.

- 6 Add the amounts on line 5. Enter the total here and on Form 1040, line 3b

6

Note: If line 6 is over \$1,500, you must complete Part III.

**Part III**

**Foreign Accounts and Trusts**

You must complete this part if you (a) had over \$1,500 of taxable interest or ordinary dividends; (b) had a foreign account; or (c) received a distribution from, or were a grantor of, or a transferor to, a foreign trust.

- 7a At any time during 2018, did you have a financial interest in or signature authority over a financial account (such as a bank account, securities account, or brokerage account) located in a foreign country? See instructions
- If "Yes," are you required to file FinCEN Form 114, Report of Foreign Bank and Financial Accounts (FBAR), to report that financial interest or signature authority? See FinCEN Form 114 and its instructions for filing requirements and exceptions to those requirements
- b If you are required to file FinCEN Form 114, enter the name of the foreign country where the financial account is located
- 8 During 2018, did you receive a distribution from, or were you the grantor of, or transferor to, a foreign trust?
- If "Yes," you may have to file Form 3520. See instructions

Yes

No

X

X

827501 10-24-18

LHA For Paperwork Reduction Act Notice, see your tax return instructions.

Schedule B (Form 1040) 2018

## Interest and Dividend Summary

Name: CARLESS J, & [REDACTED] BOATWRIGHT

FEIN/SSN:

	Payer	Interest	Interest on U.S. Savings Bonds	Tax-Exempt Interest	Private Activity Interest	Market Discount	Original Issue Discount (OID)	Ordinary Dividends	Qualified Dividends
A	CAPITAL CITY BANK	46.							
B									
C									
D									
E									
F									
G									
H									
I									
J									
K									
Totals		46.							

	Capital Gain Distributions	Unrecaptured Section 1250 Gain	Section 1202 Gain	Collectibles	Section 169A Dividends	Investment Expenses	Federal Tax Withheld	State Tax Withheld	Foreign Tax Paid
A									
B									
C									
D									
E									
F									
G									
H									
I									
J									
K									
Totals									

630101 09-11-16

## SCHEDULE E

(Form 1040)

Department of the Treasury  
Internal Revenue Service (99)

## Supplemental Income and Loss

(From rental real estate, royalties, partnerships, S corporations, estates, trusts, REMICs, etc.)

▶ Attach to Form 1040, 1040NR, or Form 1041.

▶ Go to www.irs.gov/ScheduleE for instructions and the latest information.

OMB No. 1545-0074

2018

Attachment  
Sequence No. 13

Name(s) shown on return

Your social security number

CARLESS J. &amp; [REDACTED] BOATWRIGHT

**Part I** Income or Loss From Rental Real Estate and Royalties Note: If you are in the business of renting personal property, use

Schedule C or C-EZ (see instructions). If you are an individual, report farm rental income or loss from Form 4835 on page 2, line 40.

A Did you make any payments in 2018 that would require you to file Form(s) 1099? (see instructions) ☐ Yes ☒ No  
B If "Yes," did you or will you file required Forms 1099? ☐ Yes ☐ No

1a Physical address of each property (street, city, state, ZIP code)

A [REDACTED]  
B [REDACTED]  
C [REDACTED]

1b	Type of Property (from list below)	2	For each rental real estate property listed above, report the number of fair rental and personal use days. Check the QJV box only if you meet the requirements to file as a qualified joint venture. See instructions.	Fair Rental Days	Personal Use Days	QJV
A	1			A 365		<input type="checkbox"/>
B	1			B 274		<input type="checkbox"/>
C	1			C 365		<input type="checkbox"/>

## Type of Property:

- 1 Single Family Residence    3 Vacation/Short-Term Rental    5 Land    7 Self-Rental  
2 Multi-Family Residence    4 Commercial    6 Royalties    8 Other (describe)

Income:	Properties:	A	B	C
3 Rents received	3	7,800.	7,200.	7,200.
4 Royalties received	4			

## Expenses:

5 Advertising	5			
6 Auto and travel (see instructions)	6			
7 Cleaning and maintenance	7	1,250.		
8 Commissions	8			
9 Insurance	9	715.	586.	733.
10 Legal and other professional fees	10			
11 Management fees	11			
12 Mortgage interest paid to banks, etc. (see instructions)	12			
13 Other interest	13			
14 Repairs	14	277.		
15 Supplies	15		900.	
16 Taxes	16	1,181.	1,372.	1,047.
17 Utilities	17		103.	
18 Depreciation expense or depletion	18	3,113.	1,491.	1,469.
19 Other (list) ▶	19			
20 Total expenses. Add lines 5 through 19	20	6,536.	4,452.	3,249.
21 Subtract line 20 from line 3 (rents) and/or 4 (royalties). If result is a (loss), see instructions to find out if you must file Form 6198	21	1,264.	2,748.	3,951.
22 Deductible rental real estate loss after limitation, if any, on Form 8582 (see instructions)	22			

23a Total of all amounts reported on line 3 for all rental properties	23a	22,200.	
b Total of all amounts reported on line 4 for all royalty properties	23b		
c Total of all amounts reported on line 12 for all properties	23c		
d Total of all amounts reported on line 18 for all properties	23d	6,073.	
e Total of all amounts reported on line 20 for all properties	23e	14,237.	

24 Income. Add positive amounts shown on line 21. Do not include any losses	24	7,963.
25 Losses. Add royalty losses from line 21 and rental real estate losses from line 22. Enter total losses here	25	
26 Total rental real estate and royalty income or (loss). Combine lines 24 and 25. Enter the result here. If Parts II, III, IV, and line 40 on page 2 do not apply to you, also enter this amount on Schedule 1 (Form 1040), line 17, or Form 1040NR, line 18. Otherwise, include this amount in the total on line 41 on page 2	26	7,963.

LHA For Paperwork Reduction Act Notice, see the separate instructions.

Schedule E (Form 1040) 2018

## Schedule E - Two-Year Comparison Worksheet

2018

Property Name:

RENTAL PROPERTY - [REDACTED]

Description	Tax Year 2017	Tax Year 2018	Increase (Decrease)
<b>INCOME</b>			
RENTS RECEIVED	7,150.	7,800.	650.
<b>EXPENSES</b>			
CLEANING AND MAINTENANCE	3,570.	1,250.	-2,320.
INSURANCE	715.	715.	0.
REPAIRS	385.	277.	-108.
TAXES	1,160.	1,181.	21.
UTILITIES	33.	0.	-33.
SUBTOTAL	5,863.	3,423.	-2,440.
DEPRECIATION EXPENSE OR DEPLETION	3,083.	3,113.	30.
TOTAL EXPENSES	8,946.	6,536.	-2,410.
INCOME OR (LOSS)	-1,796.	1,264.	3,060.
DEDUCTIBLE RENTAL LOSS *	-1,796.	0.	1,796.
* INCLUDES PASSIVE ACTIVITY LOSS			

## Schedule E - Two-Year Comparison Worksheet

2018

Property Name:

RESIDENTIAL RENTAL -

Description	Tax Year 2017	Tax Year 2018	Increase (Decrease)
<b>INCOME</b>			
RENTS RECEIVED	7,200.	7,200.	0.
<b>EXPENSES</b>			
INSURANCE	806.	733.	-73.
TAXES	1,016.	1,047.	31.
SUBTOTAL	1,822.	1,780.	-42.
DEPRECIATION EXPENSE OR DEPLETION	1,469.	1,469.	0.
TOTAL EXPENSES	3,291.	3,249.	-42.
INCOME OR (LOSS)	3,909.	3,951.	42.

## Schedule E - Two-Year Comparison Worksheet

2018

Property Name:

RESIDENTIAL RENTAL -

Description	Tax Year 2017	Tax Year 2018	Increase (Decrease)
<b>INCOME</b>			
RENTS RECEIVED	7,200.	7,200.	0.
<b>EXPENSES</b>			
CLEANING AND MAINTENANCE	145.	0.	-145.
INSURANCE	552.	586.	34.
REPAIRS	285.	0.	-285.
SUPPLIES	0.	900.	900.
TAXES	2,023.	1,372.	-651.
UTILITIES	91.	103.	12.
SUBTOTAL	3,096.	2,961.	-135.
DEPRECIATION EXPENSE OR DEPLETION	1,286.	1,491.	205.
TOTAL EXPENSES	4,382.	4,452.	70.
INCOME OR (LOSS)	2,818.	2,748.	-70.

## Paid Preparer's Due Diligence Checklist

Earned Income Credit (EIC), American Opportunity Tax Credit (AOTC), Child Tax Credit (CTC) (including the Additional Child Tax Credit (ACTC)) and Credit for Other Dependents (ODC), and Head of Household (HOH) Filing Status  
**► To be completed by preparer and filed with Form 1040, 1040NR, 1040SS, or 1040PR.**  
**► Go to [www.irs.gov/Form8867](http://www.irs.gov/Form8867) for instructions and the latest information.**

OMB No. 1545-0074

**2018**  
Attachment  
Sequence No. 70

Taxpayer name(s) shown on return

**CARLESS J. & [REDACTED] BOATWRIGHT**

Taxpayer identification number

Enter preparer's name and PTIN

**JOHN D. ROWE, CPA**

**P00099553**

**Part I Due Diligence Requirements**

Please check the appropriate box for the credit(s) and/or HOH filing status claimed on this return and complete the related Parts I-V for the benefit(s), and/or HOH filing status claimed (check all that apply).	EIC	CTC/ ACTC/ODC	AOTC	HOH
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>1</b> Did you complete the return based on information for tax year 2018 provided by the taxpayer or reasonably obtained by you? .....	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No			
<b>2</b> If credits are claimed on the return, did you complete the applicable EIC and/or CTC/ACTC/ODC worksheets found in the Form 1040, 1040SS, 1040PR, or 1040NR instructions, and/or the AOTC worksheet found in the Form 8863 instructions, or your own worksheet(s) that provides the same information, and all related forms and schedules for each credit claimed? .....	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A			
<b>3</b> Did you satisfy the knowledge requirement? To meet the knowledge requirement, you must do both of the following. <ul style="list-style-type: none"> <li>• Interview the taxpayer, ask questions, and document the taxpayer's responses to determine that the taxpayer is eligible to claim the credit(s) and/or HOH filing status.</li> <li>• Review information to determine that the taxpayer is eligible to claim the credit(s) and/or HOH filing status and the amount of any credit(s) claimed.</li> </ul>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No			
<b>4</b> Did any information provided by the taxpayer or a third party for use in preparing the return, or information reasonably known to you, appear to be incorrect, incomplete, or inconsistent? (If "Yes," answer questions 4a and 4b. If "No," go to question 5.) .....	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
<b>a</b> Did you make reasonable inquiries to determine the correct, complete, and consistent information? .....	<input type="checkbox"/> Yes <input type="checkbox"/> No			
<b>b</b> Did you document your inquiries? (Documentation should include the questions you asked, whom you asked, when you asked, the information that was provided, and the impact the information had on your preparation of the return.) .....	<input type="checkbox"/> Yes <input type="checkbox"/> No			
<b>5</b> Did you satisfy the record retention requirement? To meet the record retention requirement, you must keep a copy of your documentation referenced in 4b, a copy of this Form 8867, a copy of any applicable worksheet(s), a record of how, when, and from whom the information used to prepare Form 8867 and any applicable worksheet(s) was obtained, and a copy of any document(s) provided by the taxpayer that you relied on to determine eligibility for the credit(s) and/or HOH filing status or to compute the amount of the credit(s) .....	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No			
List those documents, if any, that you relied on. <div style="border: 1px solid black; height: 40px; margin-top: 5px;"></div>				
<b>6</b> Did you ask the taxpayer whether he/she could provide documentation to substantiate eligibility for the credit(s) and/or HOH filing status and the amount of any credit(s) claimed on the return if his/her return is selected for audit? .....	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No			
<b>7</b> Did you ask the taxpayer if any of these credits were disallowed or reduced in a previous year? .....	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A			
(If credits were disallowed or reduced, go to question 7a; if not, go to question 8.)				
<b>a</b> Did you complete the required recertification Form 8862? .....	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A			
<b>8</b> If the taxpayer is reporting self-employment income, did you ask questions to prepare a complete and correct Form 1040, Schedule C? .....	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A			

**Part II** Due Diligence Questions for Returns Claiming EIC (If the return does not claim EIC, go to Part III.)

	EIC	CTC/ ACTC/ODC	AOTC	HOH
9a Have you determined that this taxpayer is, in fact, eligible to claim the EIC for the number of children for whom the EIC is claimed, or to claim the EIC if the taxpayer has no qualifying child? (Skip 9b and 9c if the taxpayer is claiming the EIC and does not have a qualifying child.)	<input type="checkbox"/> Yes <input type="checkbox"/> No			
b Did you ask the taxpayer if the child lived with the taxpayer for over half of the year, even if the taxpayer has supported the child the entire year?	<input type="checkbox"/> Yes <input type="checkbox"/> No			
c Did you explain to the taxpayer the rules about claiming the EIC when a child is the qualifying child of more than one person (tiebreaker rules)?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A			

**Part III** Due Diligence Questions for Returns Claiming CTC/ACTC/ODC (If the return does not claim CTC, ACTC, or ODC, go to Part IV.)

	EIC	CTC/ ACTC/ODC	AOTC	HOH
10 Have you determined that each qualifying person for the CTC/ACTC/ODC is the taxpayer's dependent who is a citizen, national, or resident of the United States?		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
11 Did you explain to the taxpayer that he/she may not claim the CTC/ACTC if the taxpayer has not lived with the child for over half of the year, even if the taxpayer has supported the child, unless the child's custodial parent has released a claim to exemption for the child?		<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A		
12 Did you explain to the taxpayer the rules about claiming the CTC/ACTC/ODC for a child of divorced or separated parents (or parents who live apart), including any requirement to attach a Form 8332 or similar statement to the return?		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A		

**Part IV** Due Diligence Questions for Returns Claiming AOTC (If the return does not claim AOTC, go to Part V.)

	EIC	CTC/ ACTC/ODC	AOTC	HOH
13 Did the taxpayer provide the required substantiation for the credit, including a Form 1098-T and/or receipts for the qualified tuition and related expenses for the claimed AOTC?			<input type="checkbox"/> Yes <input type="checkbox"/> No	

**Part V** Due Diligence Questions for Claiming HOH (If the return does not claim HOH filing status, go to Part VI.)

	EIC	CTC/ ACTC/ODC	AOTC	HOH
14 Have you determined that the taxpayer was unmarried or considered unmarried on the last day of the tax year and provided more than half of the cost of keeping up a home for the year for a qualifying person?				<input type="checkbox"/> Yes <input type="checkbox"/> No

**Part VI** Eligibility Certification

► You will have complied with all due diligence requirements for claiming the applicable credit(s) and/or HOH filing status on the return of the taxpayer identified above if you:

- Interview the taxpayer, ask adequate questions, document the taxpayer's responses on the return or in your notes, review adequate information to determine if the taxpayer is eligible to claim the credit(s) and/or HOH filing status and to determine the amount of the credit(s) claimed;
- Complete this Form 8867 truthfully and accurately and complete the actions described in this checklist for any applicable credit(s) claimed and HOH filing status, if claimed;
- Submit Form 8867 in the manner required; and
- Keep all five of the following records for 3 years from the latest of the dates specified in the Form 8867 instructions under *Document Retention*.
  - A copy of Form 8867;
  - The applicable worksheet(s) or your own worksheet(s) for any credit(s) claimed;
  - Copies of any documents provided by the taxpayer on which you relied to determine eligibility for the credit(s) and/or HOH filing status;
  - A record of how, when, and from whom the information used to prepare this form and the applicable worksheet(s) was obtained; and
  - A record of any additional questions you may have asked to determine eligibility to claim the credit(s), and/or HOH filing status and the amount(s) of any credit(s) claimed and the taxpayer's answers.

► If you have not complied with all due diligence requirements, you may have to pay a \$520 penalty for each failure to comply related to a claim of an applicable credit or HOH filing status.

15 Do you certify that all of the answers on this Form 8867 are, to the best of your knowledge, true, correct, and complete?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
--	---

## Shared Responsibility Payment

821636 12-26-18

### To Figure Your Shared Responsibility Payment

- Follow Steps 1 through 5 next.
- Complete Worksheet A and Worksheet B if you are directed to them as you complete Steps 1 through 5.
- Complete the Shared Responsibility Payment Worksheet as directed by Steps 1 through 5 or Worksheets A and B.

#### Step 1 All Filers

1. Can someone claim you as a dependent?

☐ Yes. Stop. You don't owe a shared responsibility payment. Check the Someone can claim you as a dependent box on the Your standard deduction line of Form 1040.

☒ No. Continue to line 2

2. Did you, and everyone else in your tax household (see Tax household under Definitions, earlier) have qualifying health coverage for every month of 2018, or have a coverage exemption that covered all of 2018 or a combination of qualifying health care coverage and coverage exemption(s) for every month of 2018?

☒ Yes. Stop. You don't owe a shared responsibility payment. Check the "Full-year health care coverage or exempt" box on Form 1040.

☐ No. Continue to line 3

\*You can check the "Full-year health care coverage or exempt" box if you had or adopted a child during the year, or a member of your tax household died during the year, as long as that person had qualifying health care coverage or a coverage exemption for every month he or she was a member of your tax household and everyone else in your tax household had health care coverage or coverage exemptions for each month of the year.

3. Did you or anyone else in your tax household have qualifying health coverage or qualify for a coverage exemption for any month in 2018?

☐ Yes. Stop. Claim any coverage exemption you qualify for on Form 8965. Skip question 4; go to Worksheet A.

☐ No. Continue to line 4

4. Did you, or anyone else in your tax household turn 18 during 2018?

☐ Yes. Go to Worksheet A

☐ No. Go to Step 2

#### Step 2 Flat Dollar Amount

1. Multiply \$695 by the number of people in your tax household who were at least 18 years old.\* ..... 1 \_\_\_\_\_
- \*For purposes of figuring the shared responsibility payment, an individual is considered under age 18 for an entire month if he or she didn't turn 18 before the first day of the month. An individual turns 18 on the anniversary of the day the individual was born.
2. Multiply \$347.50 by the number of people in your tax household who were under age 18 ..... 2 \_\_\_\_\_
3. Add lines 1 and 2 ..... 3 \_\_\_\_\_
4. Enter the smaller of line 3 or \$2,085 here and on line 1 of the Shared Responsibility Payment Worksheet. Go to Step 3 ..... 4 \_\_\_\_\_

#### Step 3 Household Income

1. Enter the amount from Form 1040, line 7 ..... 1 \_\_\_\_\_
2. Did you receive any tax-exempt interest? ..... 2 \_\_\_\_\_
- ☐ Yes. Enter the amount from Form 1040, line 2a
- ☐ No. Continue to line 3
3. Did you attach Form 2555 or Form 2555-EZ? ..... 3 \_\_\_\_\_
- ☐ Yes. Enter the amount from Form 2555, lines 45 and 50; or Form 2555-EZ, line 18
- ☐ No. Continue to line 4
4. Did you claim any dependents? ..... 4 \_\_\_\_\_
- ☐ Yes. Continue to line 5
- ☐ No. Stop. Add lines 1 through 3. This is your household income. Enter the result on Step 4, line 1
5. Were any of the dependents you claimed required to file a return? ..... 5 \_\_\_\_\_
- ☐ Yes. Complete questions 1 through 3 for each dependent with a filing requirement for whom you didn't attach Form 8814. Enter the total here
- ☐ No. Add lines 1 through 3. This is your household income. Enter the result on Step 4, line 1
6. Did you attach Form 8814? ..... 6 \_\_\_\_\_
- ☐ Yes. Continue to line 7
- ☐ No. Stop. Add lines 1, 2, 3, and 5. This is your household income. Enter the result on Step 4, line 1
7. Is Form 8814, line 4, more than \$1,050? ..... 7 \_\_\_\_\_
- ☐ Yes. Add the amount from Form 8814, line 1b, and the smaller of Form 8814, line 4 or 5
- ☐ No. Enter -0-. Continue to line 8
8. Add lines 1, 2, 3, 5, and 7. This is your household income. Enter the result on Step 4, line 1 ..... 8 \_\_\_\_\_

## Shared Responsibility Payment continued

### Step 4 Percentage Income Amount

1. Enter your household income from Step 3 ..... 1 \_\_\_\_\_
2. Were you or your spouse (if filing jointly) born before January 2, 1954?  
☐ Yes. Skip question 3. Find your filing threshold on the **Filing Thresholds for Most People** chart and enter it both here and on line 4 ..... 2 \_\_\_\_\_  
☐ No. Go to question 3.
3. Enter the amount listed below for your filing status ..... 3 \_\_\_\_\_
  - Single - \$12,000
  - Head of household - \$18,000
  - Married filing jointly - \$24,000
  - Married filing separately - \$0
  - Qualifying widow(er) - \$24,000
4. Enter the amount from line 2 or 3 ..... 4 \_\_\_\_\_
5. Subtract line 4 from line 1 ..... 5 \_\_\_\_\_
6. Is the amount on line 5 zero or less?  
☐ Yes. Stop. You don't owe a shared responsibility payment. Check the "Full-year health care coverage or exempt" box on Form 1040. You don't need to file Form 8965.  
☐ No. Continue to line 7
7. Multiply line 5 by 2.5% (0.025). This is your percentage income amount ..... 7 \_\_\_\_\_
8. Were you required to complete Worksheet A?  
☐ Yes. Go to Worksheet B. Then continue to Step 5.  
☐ No. Enter the amount from line 7 above on line 2 of the Shared Responsibility Payment Worksheet and complete line 3 of that worksheet. Then continue to Step 5.

### Step 5 National Average Bronze Plan Premium

1. Were you required to complete Worksheet A?  
☐ Yes. Continue to line 2  
☐ No. Skip question 2; Go to question 3.
2. Multiply \$283\* by the number on Worksheet A, line 8. Enter the result here and on line 4 of the Shared Responsibility Payment Worksheet. Skip question 3 and complete line 5 of the Shared Responsibility Payment Worksheet ..... 2 \_\_\_\_\_  
\*\$283 is the 2018 national average premium for a bronze level health plan available through the Marketplace for one individual for one month.
3. Enter on line 4 of the Shared Responsibility Payment Worksheet the amount below that corresponds to the total number of people in your tax household. Then complete line 5 of the Shared Responsibility Payment Worksheet.
  - 1 person - \$3,396
  - 2 people - \$6,792
  - 3 people - \$10,188
  - 4 people - \$13,584
  - 5 or more people - \$16,980

### Shared Responsibility Payment Worksheet

Use this worksheet if you are referred here from the Shared Responsibility Payment flowchart or from Worksheet A or B. If everyone in your tax household had either minimum essential coverage or a coverage exemption for every month during 2018, stop here. You don't owe a shared responsibility payment.

<b>Complete Step 1</b>	
1. Enter the flat dollar amount. (From Step 2, question 4 or Worksheet A, line 7) .....	1 _____
<b>Complete Step 3</b>	
2. Enter the percentage income amount. (From Step 4, question 7 or Worksheet B, line 14) .....	2 _____
3. Enter the larger of line 1 or line 2 .....	3 _____
<b>Complete Step 5</b>	
4. Enter the National Average Bronze Plan Premium. (From Step 5, question 2 or 3) .....	4 _____
5. Enter the smaller of line 3 or line 4 here and on Schedule 4 (Form 1040), line 61.	
This is your shared responsibility payment .....	5 _____

**Passive Activity Loss Limitations**

▶ See separate instructions.

▶ Attach to Form 1040 or Form 1041.

▶ Go to [www.irs.gov/Form8582](http://www.irs.gov/Form8582) for instructions and the latest information.

OMB No. 1545-1008

**2018**  
Attachment  
Sequence No. 88

Name(s) shown on return

Identifying number

**CARLESS J. & [REDACTED] BOATWRIGHT****Part I 2018 Passive Activity Loss** Caution: Complete Worksheets 1, 2, and 3 before completing Part I.**Rental Real Estate Activities With Active Participation** (For the definition of active participation, see Special Allowance for Rental Real Estate Activities in the instructions.)

1a Activities with net income (enter the amount from Worksheet 1, column (a))	1a	7,963.	
b Activities with net loss (enter the amount from Worksheet 1, column (b))	1b	( )	
c Prior years' unallowed losses (enter the amount from Worksheet 1, column (c))	1c	( )	
d Combine lines 1a, 1b, and 1c	1d	7,963.	

**Commercial Revitalization Deductions From Rental Real Estate Activities**

2a Commercial revitalization deductions from Worksheet 2, column (a)	2a	( )	
b Prior year unallowed commercial revitalization deductions from Worksheet 2, column (b)	2b	( )	
c Add lines 2a and 2b	2c	( )	

**All Other Passive Activities**

3a Activities with net income (enter the amount from Worksheet 3, column (a))	3a		
b Activities with net loss (enter the amount from Worksheet 3, column (b))	3b	( )	
c Prior years' unallowed losses (enter the amount from Worksheet 3, column (c))	3c	( )	
d Combine lines 3a, 3b, and 3c	3d		

4 Combine lines 1d, 2c, and 3d. If this line is zero or more, stop here and include this form with your return; all losses are allowed, including any prior year unallowed losses entered on line 1c, 2b, or 3c. Report the losses on the forms and schedules normally used	4	7,963.	
---	---	--------	--

- If line 4 is a loss and:
- Line 1d is a loss, go to Part II.
  - Line 2c is a loss (and line 1d is zero or more), skip Part II and go to Part III.
  - Line 3d is a loss (and lines 1d and 2c are zero or more), skip Parts II and III and go to line 15.

**Caution:** If your filing status is married filing separately and you lived with your spouse at any time during the year, do not complete Part II or Part III. Instead, go to line 15.

**Part II Special Allowance for Rental Real Estate Activities With Active Participation**

Note: Enter all numbers in Part II as positive amounts. See instructions for an example.

5 Enter the smaller of the loss on line 1d or the loss on line 4	5	
6 Enter \$150,000. If married filing separately, see instructions	6	
7 Enter modified adjusted gross income, but not less than zero (see instructions) Note: If line 7 is greater than or equal to line 6, skip lines 8 and 9, enter -0- on line 10. Otherwise, go to line 8.	7	
8 Subtract line 7 from line 6	8	
9 Multiply line 8 by 50% (0.50). Do not enter more than \$25,000. If married filing separately, see instructions	9	
10 Enter the smaller of line 5 or line 9 If line 2c is a loss, go to Part III. Otherwise, go to line 15.	10	

**Part III Special Allowance for Commercial Revitalization Deductions From Rental Real Estate Activities**

Note: Enter all numbers in Part III as positive amounts. See the example for Part II in the instructions.

11 Enter \$25,000 reduced by the amount, if any, on line 10. If married filing separately, see instructions	11	
12 Enter the loss from line 4	12	
13 Reduce line 12 by the amount on line 10	13	
14 Enter the smallest of line 2c (treated as a positive amount), line 11, or line 13	14	

**Part IV Total Losses Allowed**

15 Add the income, if any, on lines 1a and 3a and enter the total	15	
16 Total losses allowed from all passive activities for 2018. Add lines 10, 14, and 15. See instructions to find out how to report the losses on your tax return	16	



SECTION 1.263(A)-1(F) DE MINIMIS SAFE HARBOR ELECTION

CARLESS J. & [REDACTED] BOATWRIGHT  
[REDACTED]

TAXPAYER IDENTIFICATION NUMBER: [REDACTED]

FOR THE YEAR ENDING DECEMBER 31, 2018

CARLESS J. & [REDACTED] BOATWRIGHT ARE MAKING THE DE MINIMIS SAFE  
HARBOR ELECTION UNDER REG. SEC. 1.263(A)-1(F).

## FORM 1040

## WAGES RECEIVED AND TAXES WITHHELD

## STATEMENT 1

T S EMPLOYER'S NAME	AMOUNT PAID	FEDERAL TAX WITHHELD	STATE TAX WITHHELD	CITY SDI TAX W/H	FICA TAX	MEDICARE TAX
T STATE OF FLORIDA CHIEF FINANCIAL OFFICER	145,107.	19,780.			7,961.	2,170.
T ST. JOHNS RIVER STATE COLLEGE	5,550.					87.
TOTALS	150,657.	19,780.			7,961.	2,257.

## FORM 8582

## ACTIVE RENTAL OF REAL ESTATE - WORKSHEET 1

## STATEMENT 2

NAME OF ACTIVITY	CURRENT YEAR		PRIOR YEAR UNALLOWED LOSS	OVERALL GAIN OR LOSS	
	NET INCOME	NET LOSS		GAIN	LOSS
RENTAL PROPERTY - [REDACTED] [REDACTED]	1,264.	0.		1,264.	
RESIDENTIAL RENTAL - [REDACTED] [REDACTED]	3,951.	0.		3,951.	
RESIDENTIAL RENTAL - [REDACTED] [REDACTED]	2,748.	0.		2,748.	
TOTALS	7,963.	0.		7,963.	

FORM 8582

## SUMMARY OF PASSIVE ACTIVITIES

STATEMENT 3

R R E A -	NAME	FORM OR SCHEDULE	GAIN/LOSS	PRIOR YEAR C/O	NET GAIN/LOSS	UNALLOWED LOSS	ALLOWED LOSS
X	RENTAL PROPERTY	-SCH E					
	[REDACTED]		1,264.		1,264.		
X	RESIDENTIAL RENTAL - [REDACTED]	SCH E					
	[REDACTED]		3,951.		3,951.		
X	RESIDENTIAL RENTAL - [REDACTED]	SCH E					
	[REDACTED]		2,748.		2,748.		
TOTALS			7,963.		7,963.		
PRIOR YEAR CARRYOVERS ALLOWED DUE TO CURRENT YEAR NET ACTIVITY INCOME							
TOTAL							

## U.S. Individual Income Tax Return

Filing Status ☐ Single ☒ Married filing jointly ☐ Married filing separately (MFS) ☐ Head of household (HOH) ☐ Qualifying widow(er) (QW)

Check only one box. If you checked the MFS box, enter the name of spouse. If you checked the HOH or QW box, enter the child's name if the qualifying person is a child but not your dependent. ▶

Your first name and middle initial <b>CARLESS J.</b>		Last name <b>BOATWRIGHT</b>	Your social security number [REDACTED]
If joint return, spouse's first name and middle initial [REDACTED]		Last name <b>BOATWRIGHT</b>	Spouse's social security number [REDACTED]
Home address (number and street). If you have a P.O. box, see instructions. [REDACTED]			Apt. no. [REDACTED]
City, town or post office, state, and ZIP code. If you have a foreign address, also complete spaces below (see instructions). [REDACTED]			Presidential Election Campaign Check here if you, or your spouse if filing jointly, want \$3 to go to this fund. Checking a box below will not change your tax or refund. <input type="checkbox"/> You <input type="checkbox"/> Spouse
Foreign country name [REDACTED]		Foreign province/state/county [REDACTED]	Foreign postal code [REDACTED]
If more than four dependents, see instructions and / here ▶ <input type="checkbox"/>			

Standard Deduction ☐ Someone can claim: ☐ You as a dependent ☐ Your spouse as a dependent ☐ Spouse itemizes on a separate return or you were a dual-status alien

Age/Blindness You: ☐ Were born before January 2, 1955 ☐ Are blind Spouse: ☐ Was born before January 2, 1955 ☐ Is blind

Dependents (see instructions):		(2) Social security number	(3) Relationship to you	(4) ✓ If qualifies for (see instructions):	
(1) First name	Last name			Child tax credit	Credit for other dependents
[REDACTED]			DAUGHTER	<input checked="" type="checkbox"/>	
[REDACTED]			DAUGHTER	<input checked="" type="checkbox"/>	
[REDACTED]			SON	<input checked="" type="checkbox"/>	

1	Wages, salaries, tips, etc. Attach Form(s) W-2	STMT 1	1	150,657.
2a	Tax-exempt interest	2a	2b	63.
3a	Qualified dividends	3a	3b	
4a	IRA distributions	4a	4b	
c	Pensions and annuities	4c	4d	
5a	Social security benefits	5a	5b	
6	Capital gain or (loss). Attach Schedule D if required. If not required, check here		6	
7a	Other income from Schedule 1, line 9		7a	12,763.
b	Add lines 1, 2b, 3b, 4b, 4d, 5b, 6, and 7a. This is your total income		7b	163,483.
8a	Adjustments to income from Schedule 1, line 22		8a	
b	Subtract line 8a from line 7b. This is your adjusted gross income		8b	163,483.
9	Standard deduction or itemized deductions (from Schedule A)	9	24,400.	
10	Qualified business income deduction. Attach Form 8995 or Form 8995-A	10		
11a	Add lines 9 and 10		11a	24,400.
b	Taxable income. Subtract line 11a from line 8b. If zero or less, enter -0-		11b	139,083.

LHA For Disclosure, Privacy Act, and Paperwork Reduction Act Notice, see separate instructions.

Form 1040 (2019)

Standard Deduction for -

- Single or Married filing separately, \$12,200
- Married filing jointly or Qualifying widow(er), \$24,400
- Head of household, \$18,350
- If you checked any box under Standard Deduction, see instructions.

12a	Tax (see inst.) Check if any from Form(s): 1 <input type="checkbox"/> 8814 2 <input type="checkbox"/> 4972 3 <input type="checkbox"/>	12a	22,315.
b	Add Schedule 2, line 3, and line 12a and enter the total	12b	22,315.
13a	Child tax credit or credit for other dependents	13a	6,000.
b	Add Schedule 3, line 7, and line 13a and enter the total	13b	6,000.
14	Subtract line 13b from line 12b. If zero or less, enter -0-	14	16,315.
15	Other taxes, including self-employment tax, from Schedule 2, line 10	15	
16	Add lines 14 and 15. This is your total tax	16	16,315.
17	Federal income tax withheld from Forms W-2 and 1099	17	19,197.
18	Other payments and refundable credits:		
a	Earned income credit (EIC)	18a	
b	Additional child tax credit. Attach Schedule 8812	18b	
c	American opportunity credit from Form 8863, line 8	18c	
d	Schedule 3, line 14	18d	
e	Add lines 18a through 18d. These are your total other payments and refundable credits	18e	
19	Add lines 17 and 18e. These are your total payments	19	19,197.
Refund	20 If line 19 is more than line 16, subtract line 16 from line 19. This is the amount you overpaid	20	2,882.
	21a Amount of line 20 you want refunded to you. If Form 8888 is attached, check here <input type="checkbox"/>	21a	2,882.
Direct deposit? See instructions.	b Routing number [REDACTED] c Type: <input checked="" type="checkbox"/> Checking <input type="checkbox"/> Savings		
	d Account number [REDACTED]		
22	Amount of line 20 you want applied to your 2020 estimated tax	22	
Amount You Owe	23 Amount you owe. Subtract line 19 from line 16. For details on how to pay, see instructions	23	
	24 Estimated tax penalty (see instructions)	24	

**Third Party Designee** (Other than paid preparer) Do you want to allow another person (other than your paid preparer) to discuss this return with the IRS? See instructions ☐ Yes. Complete below. ☒ No

Designee's name \_\_\_\_\_ Phone no. \_\_\_\_\_ Personal identification number (PIN) \_\_\_\_\_

**Sign Here** Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Your signature \_\_\_\_\_ Date \_\_\_\_\_ Your occupation \_\_\_\_\_ If the IRS sent you an Identity Protection PIN, enter it here (see inst.) \_\_\_\_\_

Spouse's signature, if a joint return, both must sign. \_\_\_\_\_ Date \_\_\_\_\_ Spouse's occupation \_\_\_\_\_ If the IRS sent your spouse an Identity Protection PIN, enter it here (see inst.) \_\_\_\_\_

Phone no. \_\_\_\_\_ Email address \_\_\_\_\_

**Paid Preparer Use Only**

Preparer's name: JOHN D. ROWE, CPA Preparer's signature: JOHN D. ROWE, CPA Date: 01/28/20 PTIN: P00099553

Check if: ☒ 3rd Party Designee ☐ Self-employed

Firm's name: CARR, RIGGS & INGRAM, LLC Phone no.: 386.325.4561 Firm's EIN: 72-1396621

Firm's address: 906 SOUTH SR 19 PALATKA, FL 32177

Go to [www.irs.gov/Form1040](http://www.irs.gov/Form1040) for instructions and the latest information.

Form 1040 (2019)

**SCHEDULE 1**  
(Form 1040 or 1040-SR)

Department of the Treasury  
Internal Revenue Service

**Additional Income and Adjustments to Income**

▶ Attach to Form 1040 or 1040-SR.  
▶ Go to [www.irs.gov/Form1040](http://www.irs.gov/Form1040) for instructions and the latest information.

OMB No. 1545-0074

**2019**  
Attachment  
Sequence No. 01

Name(s) shown on Form 1040 or 1040-SR

**CARLESS J. & BOATWRIGHT**

Your social security number

At any time during 2019, did you receive, sell, send, exchange, or otherwise acquire any financial interest in any virtual currency? ☐ Yes ☒ No

**Part I Additional Income**

1	Taxable refunds, credits, or offsets of state and local income taxes	1	
2a	Alimony received	2a	
b	Date of original divorce or separation agreement (see instructions) ▶		
3	Business income or (loss). Attach Schedule C	3	
4	Other gains or (losses). Attach Form 4797	4	
5	Rental real estate, royalties, partnerships, S corporations, trusts, etc. Attach Schedule E	5	12,763.
6	Farm income or (loss). Attach Schedule F	6	
7	Unemployment compensation	7	
8	Other income. List type and amount ▶	8	
9	Combine lines 1 through 8. Enter here and on Form 1040 or 1040-SR, line 7a	9	12,763.

**Part II Adjustments to Income**

10	Educator expenses	10	
11	Certain business expenses of reservists, performing artists, and fee-basis government officials. Attach Form 2106	11	
12	Health savings account deduction. Attach Form 8889	12	
13	Moving expenses for members of the Armed Forces. Attach Form 3903	13	
14	Deductible part of self-employment tax. Attach Schedule SE	14	
15	Self-employed SEP, SIMPLE, and qualified plans	15	
16	Self-employed health insurance deduction	16	
17	Penalty on early withdrawal of savings	17	
18a	Alimony paid	18a	
b	Recipient's SSN ▶		
c	Date of original divorce or separation agreement (see instructions) ▶		
19	IRA deduction	19	
20	Student loan interest deduction	20	
21	Tuition and fees. Attach Form 8917	21	
22	Add lines 10 through 21. These are your adjustments to income. Enter here and on Form 1040 or 1040-SR, line 8a	22	

LHA For Paperwork Reduction Act Notice, see your tax return instructions.

Schedule 1 (Form 1040 or 1040-SR) 2019

# **Child Tax Credit and Credit for Other Dependents Worksheet** (keep for your records)

Name(s): First **CARLESS J. &** Last **BOATWRIGHT** Your SSN

## **Part 1**

1. Number of qualifying children under age 17 with the required social security number: 3 X \$2,000. Enter the result. 1 6,000.
2. Number of other dependents, including qualifying children who are not under 17 or who do not have the required social security number:  X \$500. Enter the result. 2
3. Add lines 1 and 2 3 6,000.
4. Enter the amount from Form 1040, line 8b or Form 1040NR, line 35. 4 163,483.
5. 1040 filers: Enter the total of any-
  - Exclusion of income from Puerto Rico, and
  - Amounts from Form 2555, lines 45 and 50 and Form 4563, line 15.5 0.
- 1040NR filers: Enter -0-.
6. Add lines 4 and 5. Enter the total. 6 163,483.
7. Enter the amount shown below for your filing status.
  - Married filing jointly - \$400,000
  - All other filing statuses - \$200,0007 400,000.
8. Is the amount on line 6 more than the amount on line 7?
  - ☒ No. Leave line 8 blank. Enter -0- on line 9.
  - ☐ Yes. Subtract line 7 from line 6. 8   
If the result is not a multiple of \$1,000, increase it to the next multiple of \$1,000 (for example, increase \$425 to \$1,000, increase \$1,025 to \$2,000, etc).
9. Multiply the amount on line 8 by 5% (.05). Enter the result. 9 0.
10. Is the amount on line 3 more than the amount on line 9?
  - ☐ No. **STOP**  
You cannot take the child tax credit or credit for other dependents on Form 1040, line 13a, or Form 1040NR, line 49. You also cannot take the additional child tax credit.
  - ☒ Yes. Subtract line 9 from line 3. Enter the result. 10 6,000.

## **Part 2**

11. Enter the amount from Form 1040, line 12b or Form 1040NR, line 45. 11 22,315.
12. 1040 filers: Enter the total of the amounts from Schedule 3, lines 1 through 4.\*  
1040NR filers: Enter the total of the amounts from lines 46 through 48.\* 12
13. Subtract line 12 from line 11 13 22,315.
14. Are you claiming any of the following credits?
  - Residential energy efficient property credit, Form 5695, Part I.
  - Mortgage Interest credit, Form 8396
  - Adoption credit, Form 8839
  - District of Columbia first-time homebuyer credit, Form 885914 0.
- ☒ No. Enter -0-.
- ☐ Yes. If you are filing Form 2555, enter -0-. Otherwise, complete the Line 14 Worksheet to figure the amount to enter here.
15. Subtract line 14 from line 13. Enter the result. 15 22,315.
16. Is the amount on line 10 of this worksheet more than the amount on line 15?
  - ☒ No. Enter the amount from line 10. 16 6,000.
  - ☐ Yes. Enter the amount from line 15. 16 6,000.

\* Also include amounts from:  
Form 5695, line 30  
Form 8910, line 15  
Form 8936, line 23  
Schedule R, line 22

(Form 1040 or 1040-SR)

Department of the Treasury  
Internal Revenue Service (99)

Name(s) shown on return

► Go to [www.irs.gov/ScheduleB](http://www.irs.gov/ScheduleB) for instructions and the latest information.

▶ Attach to Form 1040 or 1040-SR.

CMB No. 1545-0074

2019

Attachment  
Sequence No. 08

**Your social security number**

CARLESS J. & [REDACTED] BOATWRIGHT

## Part I

## Interest

- 1 List name of payer. If any interest is from a seller-financed mortgage and the buyer used the property as a personal residence, see the instructions and list this interest first. Also, show that buyer's social security number and address ►

CAPITAL CITY BANK

Amount

63.

**Note:** If you received a Form 1099-INT, Form 1099-OLD, or substitute statement from a brokerage firm, list the firm's name as the payer and enter the total interest shown on that form.

- 2 Add the amounts on line 1 .....
- 3 Excludable interest on series EE and I U.S. savings bonds issued after 1989.  
Attach Form 8815 .....
- 4 Subtract line 3 from line 2. Enter the result here and on Form 1040 or 1040-SR, line 2b .....

**Note:** If line 4 is over \$1,500, you must complete Part III.

63.

63.

## Part II

## Ordinary Dividends

- 5 List name of payer ▶

**Note:** If you received a Form 1099-DIV or substitute statement from a brokerage firm, list the firm's name as the payer and enter the ordinary dividends shown on that form.

5

- 6** Add the amounts on line 5. Enter the total here and on Form 1040 or 1040-SR, line 3b

**Note:** If line 6 is over \$1,500, you must complete Part III.

## Part III

You must complete this part if you (a) had over \$1,500 of taxable interest or ordinary dividends; (b) had a foreign account; or (c) received a distribution from, or were a grantor of, or a transferor to, a foreign trust.

## Foreign Accounts and Trusts

**Caution:** If required, failure to file FinCEN Form 114 may result in substantial penalties. See instructions.  
927501 11-19-19

- 7a At any time during 2019, did you have a financial interest in or signature authority over a financial account (such as a bank account, securities account, or brokerage account) located in a foreign country? See instructions .....  
If "Yes," are you required to file FinCEN Form 114, Report of Foreign Bank and Financial Accounts (FBAR), to report that financial interest or signature authority? See FinCEN Form 114 and its instructions for filing requirements and exceptions to those requirements .....
- b If you are required to file FinCEN Form 114, enter the name of the foreign country where the financial account is located ..... ►
- 8 During 2019, did you receive a distribution from, or were you the grantor of, or transferor to, a foreign trust? If "Yes," you may have to file Form 3520. See instructions .....

Yes	No
	X
	X

**LHA** For Paperwork Reduction Act Notice, see your tax return instructions.

Schedule B (Form 1040 or 1040-SR) 2019

## Interest and Dividend Summary

Name: **CARLESS J. & [REDACTED] BOATHWRIGHT**

FEIN/SSN:

	Payer	Interest	Interest on U.S. Savings Bonds	Tax-Exempt Interest	Private Activity Interest	Market Discount	Original Issue Discount (OID)	Ordinary Dividends	Qualified Dividends
A	CAPITAL CITY BANK	63.							
B									
C									
D									
E									
F									
G									
H									
I									
J									
K									
Totals		63.							

	Capital Gain Distributions	Unrecaptured Section 1250 Gain	Section 1202 Gain	Collectibles	Section 199A Dividends	Investment Expenses	Federal Tax Withheld	State Tax Withheld	Foreign Tax Paid
A									
B									
C									
D									
E									
F									
G									
H									
I									
J									
K									
Totals									

630101 04-01-19

**SCHEDULE E**  
Form 1040 or 1040-SR)

Department of the Treasury  
Internal Revenue Service (99)

**Supplemental Income and Loss**

(From rental real estate, royalties, partnerships, S corporations, estates, trusts, REMICs, etc.)

▶ Attach to Form 1040, 1040-SR, 1040-NR, or 1041.

▶ Go to [www.irs.gov/ScheduleE](http://www.irs.gov/ScheduleE) for instructions and the latest information.

OMB No. 1545-0074

**2019**

Attachment  
Sequence No. 13

Name(s) shown on return

Your social security number

**CARLESS J. & [REDACTED] BOATWRIGHT**

**Part I** **Income or Loss From Rental Real Estate and Royalties** Note: If you are in the business of renting personal property, use Schedule C (see instructions). If you are an individual, report farm rental income or loss from Form 4835 on page 2, line 40.

A Did you make any payments in 2019 that would require you to file Form(s) 1099? (see instructions) ☐ Yes ☒ No  
B If "Yes," did you or will you file required Forms 1099? ☐ Yes ☐ No

**1a** Physical address of each property (street, city, state, ZIP code)

A [REDACTED]  
B [REDACTED]  
C [REDACTED]

1b	Type of Property (from list below)	2	For each rental real estate property listed above, report the number of fair rental and personal use days. Check the QJV box only if you meet the requirements to file as a qualified joint venture. See instructions.	Fair Rental Days	Personal Use Days	QJV
A	1			A	365	<input type="checkbox"/>
B	1			B	365	<input type="checkbox"/>
C	1			C	365	<input type="checkbox"/>

**Type of Property:**

- 1 Single Family Residence    3 Vacation/Short-Term Rental    5 Land    7 Self-Rental  
2 Multi-Family Residence    4 Commercial    6 Royalties    8 Other (describe)

Income:	Properties:	A	B	C
3 Rents received	3	7,800.	9,600.	7,200.
4 Royalties received	4			
<b>Expenses:</b>				
5 Advertising	5			
6 Auto and travel (see instructions)	6			
7 Cleaning and maintenance	7			
8 Commissions	8			
9 Insurance	9	651.	559.	733.
10 Legal and other professional fees	10			
11 Management fees	11			
12 Mortgage interest paid to banks, etc. (see instructions)	12			
13 Other interest	13			
14 Repairs	14	150.		
15 Supplies	15			
16 Taxes	16	1,183.	1,388.	1,099.
17 Utilities	17			
18 Depreciation expense or depletion	18	3,114.	1,491.	1,469.
19 Other (list) ▶	19			
20 Total expenses. Add lines 5 through 19	20	5,098.	3,438.	3,301.
21 Subtract line 20 from line 3 (rents) and/or 4 (royalties). If result is a (loss), see instructions to find out if you must file Form 6198	21	2,702.	6,162.	3,899.
22 Deductible rental real estate loss after limitation, if any, on Form 8582 (see instructions)	22			
23a Total of all amounts reported on line 3 for all rental properties	23a	24,600.		
b Total of all amounts reported on line 4 for all royalty properties	23b			
c Total of all amounts reported on line 12 for all properties	23c			
d Total of all amounts reported on line 18 for all properties	23d	6,074.		
e Total of all amounts reported on line 20 for all properties	23e	11,837.		
24 Income. Add positive amounts shown on line 21. Do not include any losses	24			12,763.
25 Losses. Add royalty losses from line 21 and rental real estate losses from line 22. Enter total losses here	25			
26 Total rental real estate and royalty income or (loss). Combine lines 24 and 25. Enter the result here. If Parts II, III, IV, and line 40 on page 2 do not apply to you, also enter this amount on Schedule 1 (Form 1040 or 1040-SR), line 5, or Form 1040-NR, line 18. Otherwise, include this amount in the total on line 41 on page 2	26			12,763.

LHA For Paperwork Reduction Act Notice, see the separate instructions.

Schedule E (Form 1040 or 1040-SR) 2019

## Schedule E - Two-Year Comparison Worksheet

2019

Property Name:

RENTAL PROPERTY - [REDACTED]

Description	Tax Year 2018	Tax Year 2019	Increase (Decrease)
<b>INCOME</b>			
RENTS RECEIVED	7,800.	7,800.	0.
<b>EXPENSES</b>			
CLEANING AND MAINTENANCE	1,250.	0.	-1,250.
INSURANCE	715.	651.	-64.
REPAIRS	277.	150.	-127.
TAXES	1,181.	1,183.	2.
SUBTOTAL	3,423.	1,984.	-1,439.
DEPRECIATION EXPENSE OR DEPLETION	3,113.	3,114.	1.
TOTAL EXPENSES	6,536.	5,098.	-1,438.
INCOME OR (LOSS)	1,264.	2,702.	1,438.

## Schedule E - Two-Year Comparison Worksheet

2019

Property Name:

RESIDENTIAL RENTAL - [REDACTED]

Description	Tax Year 2018	Tax Year 2019	Increase (Decrease)
INCOME			
RENTS RECEIVED	7,200.	7,200.	0.
EXPENSES			
INSURANCE	733.	733.	0.
TAXES	1,047.	1,099.	52.
SUBTOTAL	1,780.	1,832.	52.
DEPRECIATION EXPENSE OR DEPLETION	1,469.	1,469.	0.
TOTAL EXPENSES	3,249.	3,301.	52.
INCOME OR (LOSS)	3,951.	3,899.	-52.

## Schedule E - Two-Year Comparison Worksheet

2019

Property Name:

RESIDENTIAL RENTAL - [REDACTED]

Description	Tax Year 2018	Tax Year 2019	Increase (Decrease)
<b>INCOME</b>			
RENTS RECEIVED	7,200.	9,600.	2,400.
<b>EXPENSES</b>			
INSURANCE	586.	559.	-27.
SUPPLIES	900.	0.	-900.
TAXES	1,372.	1,388.	16.
UTILITIES	103.	0.	-103.
SUBTOTAL	2,961.	1,947.	-1,014.
DEPRECIATION EXPENSE OR DEPLETION	1,491.	1,491.	0.
TOTAL EXPENSES	4,452.	3,438.	-1,014.
INCOME OR (LOSS)	2,748.	6,162.	3,414.

# Paid Preparer's Due Diligence Checklist

Earned Income Credit (EIC), American Opportunity Tax Credit (AOTC), Child Tax Credit (CTC) (including the Additional Child Tax Credit (ACTC) and Credit for Other Dependents (ODC)), and Head of Household (HOH) Filing Status

► To be completed by preparer and filed with Form 1040, 1040-SR, 1040-NR, 1040-PR, or 1040-SS.  
► Go to [www.irs.gov/Form8867](http://www.irs.gov/Form8867) for instructions and the latest information.

OMB No. 1545-0074

**2019**  
Attachment  
Sequence No. 70

Taxpayer name(s) shown on return

CARLESS J. & [REDACTED] BOATWRIGHT

Taxpayer identification number

Enter preparer's name and PTIN

JOHN D. ROWE, CPA

P00099553

## Part I Due Diligence Requirements

Please check the appropriate box for the credit(s) and/or HOH filing status claimed on the return and complete the related Parts I-V for the benefit(s) claimed (check all that apply).

☐ EIC ☒ CTC/ACTC/ODC ☐ AOTC ☐ HOH

	Yes	No	N/A
1 Did you complete the return based on information for tax year 2019 provided by the taxpayer or reasonably obtained by you? .....	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2 If credits are claimed on the return, did you complete the applicable EIC and/or CTC/ACTC/ODC worksheets found in the Form 1040, 1040-SR, 1040-NR, 1040-PR, or 1040-SS instructions, and/or the AOTC worksheet found in the Form 8863 Instructions, or your own worksheet(s) that provides the same information, and all related forms and schedules for each credit claimed? .....	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3 Did you satisfy the knowledge requirement? To meet the knowledge requirement, you must do both of the following. • Interview the taxpayer, ask questions, and contemporaneously document the taxpayer's responses to determine that the taxpayer is eligible to claim the credit(s) and/or HOH filing status. • Review information to determine that the taxpayer is eligible to claim the credit(s) and/or HOH filing status and to compute the amount(s) of any credit(s) .....	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4 Did any information provided by the taxpayer or a third party for use in preparing the return, or information reasonably known to you, appear to be incorrect, incomplete, or inconsistent? (If "Yes," answer questions 4a and 4b. If "No," go to question 5.) .....	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
a Did you make reasonable inquiries to determine the correct, complete, and consistent information? .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b Did you contemporaneously document your inquiries? (Documentation should include the questions you asked, whom you asked, when you asked, the information that was provided, and the impact the information had on your preparation of the return.) .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5 Did you satisfy the record retention requirement? To meet the record retention requirement, you must keep a copy of your documentation referenced in 4b, a copy of this Form 8867, a copy of any applicable worksheet(s), a record of how, when, and from whom the information used to prepare Form 8867 and any applicable worksheet(s) was obtained, and a copy of any document(s) provided by the taxpayer that you relied on to determine eligibility for the credit(s) and/or HOH filing status or to compute the amount(s) of the credit(s) .....	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
List those documents, if any, that you relied on. ..... ..... .....			
6 Did you ask the taxpayer whether he/she could provide documentation to substantiate eligibility for the credit(s) and/or HOH filing status and the amount(s) of any credit(s) claimed on the return if his/her return is selected for audit? .....	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7 Did you ask the taxpayer if any of these credits were disallowed or reduced in a previous year? .....	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(If credits were disallowed or reduced, go to question 7a; if not, go to question 8.)			
a Did you complete the required recertification Form 8862? .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8 If the taxpayer is reporting self-employment income, did you ask questions to prepare a complete and correct Schedule C (Form 1040 or 1040-SR)? .....	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

LHA For Paperwork Reduction Act Notice, see separate instructions.

Form 8867 (2019)

**Part II** Due Diligence Questions for Returns Claiming EIC (If the return does not claim EIC, go to Part III.)

	Yes	No	N/A
9a Have you determined that the taxpayer is, in fact, eligible to claim the EIC for the number of qualifying children claimed, or is eligible to claim the EIC without a qualifying child? (Skip 9b and 9c if the taxpayer is claiming the EIC and does not have a qualifying child.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b Did you ask the taxpayer if the child lived with the taxpayer for over half of the year, even if the taxpayer has supported the child the entire year?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c Did you explain to the taxpayer the rules about claiming the EIC when a child is the qualifying child of more than one person (tiebreaker rules)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**Part III** Due Diligence Questions for Returns Claiming CTC/ACTC/ODC (If the return does not claim CTC, ACTC, or ODC, go to Part IV.)

	Yes	No	N/A
10 Have you determined that each qualifying person for the CTC/ACTC/ODC is the taxpayer's dependent who is a citizen, national, or resident of the United States?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11 Did you explain to the taxpayer that he/she may not claim the CTC/ACTC if the taxpayer has not lived with the child for over half of the year, even if the taxpayer has supported the child, unless the child's custodial parent has released a claim to exemption for the child?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
12 Did you explain to the taxpayer the rules about claiming the CTC/ACTC/ODC for a child of divorced or separated parents (or parents who live apart), including any requirement to attach a Form 8332 or similar statement to the return?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**Part IV** Due Diligence Questions for Returns Claiming AOTC (If the return does not claim AOTC, go to Part V.)

	Yes	No
13 Did the taxpayer provide substantiation for the credit, such as a Form 1098-T and/or receipts for the qualified tuition and related expenses for the claimed AOTC?	<input type="checkbox"/>	<input type="checkbox"/>

**Part V** Due Diligence Questions for Claiming HOH (If the return does not claim HOH filing status, go to Part VI.)

	Yes	No
14 Have you determined that the taxpayer was unmarried or considered unmarried on the last day of the tax year and provided more than half of the cost of keeping up a home for the year for a qualifying person?	<input type="checkbox"/>	<input type="checkbox"/>

**Part VI** Eligibility Certification

- You will have complied with all due diligence requirements for claiming the applicable credit(s) and/or HOH filing status on the return of the taxpayer identified above if you:
- Interview the taxpayer, ask adequate questions, contemporaneously document the taxpayer's responses on the return or in your notes, review adequate information to determine if the taxpayer is eligible to claim the credit(s) and/or HOH filing status and to compute the amount(s) of the credit(s);
  - Complete this Form 8867 truthfully and accurately and complete the actions described in this checklist for any applicable credit(s) claimed and HOH filing status, if claimed;
  - Submit Form 8867 in the manner required; and
  - Keep all five of the following records for 3 years from the latest of the dates specified in the Form 8867 instructions under *Document Retention*.
    - A copy of this Form 8867.
    - The applicable worksheet(s) or your own worksheet(s) for any credit(s) claimed.
    - Copies of any documents provided by the taxpayer on which you relied to determine the taxpayer's eligibility for the credit(s) and/or HOH filing status and to compute the amount(s) of the credit(s).
    - A record of how, when, and from whom the information used to prepare this form and the applicable worksheet(s) was obtained.
    - A record of any additional information you relied upon, including questions you asked and the taxpayer's responses, to determine the taxpayer's eligibility for the credit(s) and/or HOH filing status and to compute the amount(s) of the credit(s).
- If you have not complied with all due diligence requirements, you may have to pay a \$530 penalty for each failure to comply related to a claim of an applicable credit or HOH filing status.

	Yes	No
15 Do you certify that all of the answers on this Form 8867 are, to the best of your knowledge, true, correct, and complete?	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Form 8867 (2019)

**Passive Activity Loss Limitations**

▶ See separate instructions,  
▶ Attach to Form 1040, Form 1040-SR, or Form 1041.  
▶ Go to [www.irs.gov/Form8582](http://www.irs.gov/Form8582) for instructions and the latest information.

Name(s) shown on return

Identifying number

**CARLESS J. & [REDACTED] BOATWRIGHT****Part I 2019 Passive Activity Loss****Caution:** Complete Worksheets 1, 2, and 3 before completing Part I.**Rental Real Estate Activities With Active Participation** (For the definition of active participation, see Special Allowance for Rental Real Estate Activities in the instructions.)

<b>1a</b> Activities with net income (enter the amount from Worksheet 1, column (a))	<b>1a</b>	12,763.	
<b>b</b> Activities with net loss (enter the amount from Worksheet 1, column (b))	<b>1b</b>	( )	
<b>c</b> Prior years' unallowed losses (enter the amount from Worksheet 1, column (c))	<b>1c</b>	( )	
<b>d</b> Combine lines 1a, 1b, and 1c	<b>1d</b>	12,763.	

**Commercial Revitalization Deductions From Rental Real Estate Activities**

<b>2a</b> Commercial revitalization deductions from Worksheet 2, column (a)	<b>2a</b>	( )	
<b>b</b> Prior year unallowed commercial revitalization deductions from Worksheet 2, column (b)	<b>2b</b>	( )	
<b>c</b> Add lines 2a and 2b	<b>2c</b>	( )	

**All Other Passive Activities**

<b>3a</b> Activities with net income (enter the amount from Worksheet 3, column (a))	<b>3a</b>	( )	
<b>b</b> Activities with net loss (enter the amount from Worksheet 3, column (b))	<b>3b</b>	( )	
<b>c</b> Prior years' unallowed losses (enter the amount from Worksheet 3, column (c))	<b>3c</b>	( )	
<b>d</b> Combine lines 3a, 3b, and 3c	<b>3d</b>	( )	

<b>4</b> Combine lines 1d, 2c, and 3d. If this line is zero or more, stop here and include this form with your return; all losses are allowed, including any prior year unallowed losses entered on line 1c, 2b, or 3c. Report the losses on the forms and schedules normally used	<b>4</b>	12,763.	
--	----------	---------	--

- If line 4 is a loss and:
- Line 1d is a loss, go to Part II.
  - Line 2c is a loss (and line 1d is zero or more), skip Part II and go to Part III.
  - Line 3d is a loss (and lines 1d and 2c are zero or more), skip Parts II and III and go to line 15.

**Caution:** If your filing status is married filing separately and you lived with your spouse at any time during the year, do not complete Part II or Part III. Instead, go to line 15.

**Part II Special Allowance for Rental Real Estate Activities With Active Participation****Note:** Enter all numbers in Part II as positive amounts. See instructions for an example.

<b>5</b> Enter the smaller of the loss on line 1d or the loss on line 4	<b>5</b>	
<b>6</b> Enter \$150,000. If married filing separately, see instructions	<b>6</b>	
<b>7</b> Enter modified adjusted gross income, but not less than zero. See instructions <b>Note:</b> If line 7 is greater than or equal to line 6, skip lines 8 and 9, enter -0- on line 10. Otherwise, go to line 8.	<b>7</b>	
<b>8</b> Subtract line 7 from line 6	<b>8</b>	
<b>9</b> Multiply line 8 by 50% (0.50). Do not enter more than \$25,000. If married filing separately, see instructions	<b>9</b>	
<b>10</b> Enter the smaller of line 5 or line 9 <b>If line 2c is a loss, go to Part III. Otherwise, go to line 15.</b>	<b>10</b>	

**Part III Special Allowance for Commercial Revitalization Deductions From Rental Real Estate Activities****Note:** Enter all numbers in Part III as positive amounts. See the example for Part II in the instructions.

<b>11</b> Enter \$25,000 reduced by the amount, if any, on line 10. If married filing separately, see instructions	<b>11</b>	
<b>12</b> Enter the loss from line 4	<b>12</b>	
<b>13</b> Reduce line 12 by the amount on line 10	<b>13</b>	
<b>14</b> Enter the smallest of line 2c (treated as a positive amount), line 11, or line 13	<b>14</b>	

**Part IV Total Losses Allowed**

<b>15</b> Add the income, if any, on lines 1a and 3a and enter the total	<b>15</b>	
<b>16</b> Total losses allowed from all passive activities for 2019. Add lines 10, 14, and 15. See instructions to find out how to report the losses on your tax return	<b>16</b>	

**Caution:** The worksheets must be filed with your tax return. Keep a copy for your records.

## Worksheet 1 - For Form 8582, Lines 1a, 1b, and 1c (see instructions)

Name of activity	Current year		Prior years	Overall gain or loss	
	(a) Net income (line 1a)	(b) Net loss (line 1b)	(c) Unallowed loss (line 1c)	(d) Gain	(e) Loss
SEE ATTACHED STATEMENT FOR WORKSHEET 1					
Total. Enter on Form 8582, lines 1a, 1b, and 1c	12,763.				

## Worksheet 2 - For Form 8582, Lines 2a and 2b (see instructions)

Name of activity	(a) Current year deductions (line 2a)	(b) Prior year unallowed deductions (line 2b)	(c) Overall loss
<b>Total.</b> Enter on Form 8582, lines 2a and 2b			

## Worksheet 3 - For Form 8582, Lines 3a, 3b, and 3c (see instructions)

Name of activity	Current year		Prior years	Overall gain or loss	
	(a) Net income (line 3a)	(b) Net loss (line 3b)	(c) Unallowed loss (line 3c)	(d) Gain	(e) Loss
<b>Total.</b> Enter on Form 8582, lines 3a, 3b, and 3c					

**Worksheet 4 - Use This Worksheet if an Amount is Shown on Form 8582, Line 10 or 14. See instructions.**

Name of activity	Form or schedule and line number to be reported on (see instructions)	(a) Loss	(b) Ratio	(c) Special allowance	(d) Subtract column (c) from column (a)
<b>Total</b> ▶					

## Worksheet 5 - Allocation of Unallowed Losses (see instructions)

Name of activity	Form or schedule and line number to be reported on (see instructions)	(a) Loss	(b) Ratio	(c) Unallowed loss
<b>Total</b>				

SECTION 1.263(A)-1(F) DE MINIMIS SAFE HARBOR ELECTION

CARLESS J. & [REDACTED] BOATWRIGHT  
[REDACTED]

TAXPAYER IDENTIFICATION NUMBER: [REDACTED]

FOR THE YEAR ENDING DECEMBER 31, 2019

CARLESS J. & [REDACTED] BOATWRIGHT ARE MAKING THE DE MINIMIS SAFE  
HARBOR ELECTION UNDER REG. SEC. 1.263(A)-1(F).

## FORM 1040

## WAGES RECEIVED AND TAXES WITHHELD

## STATEMENT 1

T S EMPLOYER'S NAME	AMOUNT PAID	FEDERAL TAX WITHHELD	STATE TAX WITHHELD	CITY SDI TAX W/H	FICA TAX	MEDICARE TAX
T STATE OF FLORIDA CHIEF FINANCIAL OFFICER	145,107.	19,197.			8,240.	2,170.
T ST. JOHNS RIVER STATE COLLEGE	5,550.					87.
TOTALS	150,657.	19,197.			8,240.	2,257.

## FORM 8582

## ACTIVE RENTAL OF REAL ESTATE - WORKSHEET 1

## STATEMENT 2

NAME OF ACTIVITY	CURRENT YEAR		PRIOR YEAR UNALLOWED LOSS	OVERALL GAIN OR LOSS	
	NET INCOME	NET LOSS		GAIN	LOSS
RENTAL PROPERTY - [REDACTED] [REDACTED]	2,702.	0.		2,702.	
RESIDENTIAL RENTAL - [REDACTED] [REDACTED]	3,899.	0.		3,899.	
RESIDENTIAL RENTAL - [REDACTED] [REDACTED]	6,162.	0.		6,162.	
TOTALS	12,763.	0.		12,763.	

FORM 8582

## SUMMARY OF PASSIVE ACTIVITIES

STATEMENT 3

R R E A	NAME	FORM OR SCHEDULE	GAIN/LOSS	PRIOR YEAR C/O	NET GAIN/LOSS	UNALLOWED LOSS	ALLOWED LOSS
X	RENTAL PROPERTY -	SCH E					
	[REDACTED]		2,702.		2,702.		
X	RESIDENTIAL RENTAL -	SCH E					
	[REDACTED]		3,899.		3,899.		
X	RESIDENTIAL RENTAL -	SCH E					
	[REDACTED]		6,162.		6,162.		
TOTALS			12,763.		12,763.		
PRIOR YEAR CARRYOVERS ALLOWED DUE TO CURRENT YEAR NET ACTIVITY INCOME							
TOTAL							