

Congress of the United States

Washington, DC 20515

July 10, 2013

Honorable Jacob J. Lew
Secretary, U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

Dear Secretary Lew:

In June, 26 members of the House of Representatives wrote to Internal Revenue Service Acting Commissioner Werfel to express concern regarding the current regulations interpreting § 501(c)(4) of the Internal Revenue Code. We write today to share this correspondence with you and request that you initiate a process to revise these regulations.

The Supreme Court's decision in *Citizens United v. FEC* and U.S. Court of Appeals for the District of Columbia's decision in *SpeechNOW.org v. FEC* have resulted in unrestricted anonymous donations—totaling hundreds of millions of dollars—from tax-exempt groups to Super PACs for political purposes. Given the dramatic growth in donations and the number and diversity of these organizations, the current regulations make it nearly impossible for IRS to make consistent and fair determinations when reviewing applications for tax-exempt status under Section 501(c)(4). The Treasury Inspector General for Tax Administration report, and subsequent disclosure of documents revealing that IRS personnel utilized “lookout” lists of political buzz words—both conservative and progressive—to determine which applications would receive extra scrutiny, makes clear that revisions are necessary to correct the interpretation of this exemption.

In addition to the administrative burden on the IRS and the concern for fairness to applicants, the current regulations are undermining the integrity of our democracy. The statutory language makes quite clear that social welfare must be the *exclusive* pursuit of those organizations formed under Section 501(c)(4). The tax code also provides an alternative venue for political activities; political groups are free to engage in political action under Section 527 while retaining tax-exempt status. The “primary purpose” standard in the current regulations thwarts central tenets of free and fair elections, such as the disclosure of donors. The ability of tax-exempt 501(c) groups to funnel anonymous money into our elections makes it impossible for voters to make informed decisions about how they interpret and value the various messages presented in political advertisements.

Last month the IRS released a new streamlined review method for 501(c)(4) applications (FS-2013-8). Expedited review is an insufficient response to this problem. When considering that the tax code requires these groups to operate exclusively for the promotion of social welfare, a group's certification that it will spend at least 60 percent of its time and money to promote social welfare and no more than 40 percent of its time and money on politics make little sense.

Please exercise your authority to revise these regulations to more closely reflect the language and intent of the Internal Revenue Code. Discarding the “primary purpose” standard will be an important first step toward preventing political expenditures by 501(c)(4)s and ensuring that these organizations stay true to their social welfare missions and are prevented

from flooding our elections with money from anonymous sources. Thank you for your consideration and we look forward to your response.

Sincerely,



Theodore E. Deutch
MEMBER OF CONGRESS



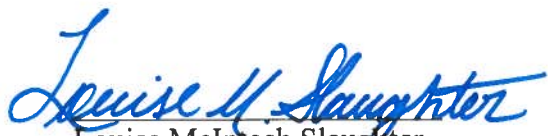
Peter Welch
MEMBER OF CONGRESS



Earl Blumenauer
MEMBER OF CONGRESS



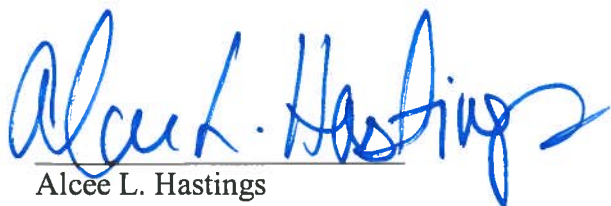
Lloyd Doggett
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Louise McIntosh Slaughter
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Jim McDermott
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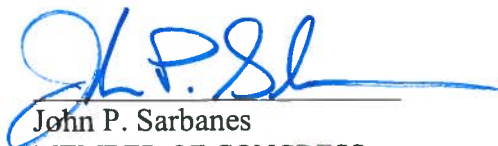
Alcee L. Hastings
MEMBER OF CONGRESS



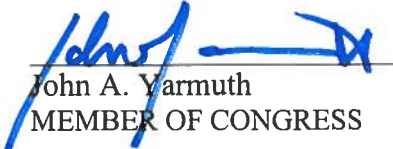
Ron Kind
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David N. Cicilline
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Matthew A. Cartwright
MEMBER OF CONGRESS



Michelle Lujan Grisham
MEMBER OF CONGRESS

CC: Assistant Secretary Mark Mazur
Acting Commissioner Daniel I. Werfel

Congress of the United States

Washington, DC 20515

June 6, 2013

Mr. Daniel I. Werfel
Acting Commissioner
Internal Revenue Service
1111 Constitution Avenue, NW, Room 3000
Washington, DC 20224

Dear Acting Commissioner Werfel:

Recent revelations that the IRS unevenly scrutinized applications for tax-exempt status highlight the need to revise regulations issued by the IRS for Section 501(c)(4) of the Internal Revenue Code. It goes without saying that any display of political bias by IRS officials is wholly unacceptable. However, there would be no room for any such behavior if these regulations more accurately reflected the intent of Congress in establishing a tax exemption for social welfare organizations and civic leagues whose work benefits our communities.

The tax exempt status written into the Tariff Act of 1913 clearly defines this exemption for "Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or local associations of employees." The current regulations run afoul of the law by taking what was clearly defined as an organization operated exclusively for the promotion of social welfare and changing it to one "primarily engaged in promoting in some way the common good and general welfare of the people of the community." The significant distinction created here in the difference between the words "exclusively" and "primarily" is obvious to any casual observer, and the problems with the IRS interpretation of this statute has been recognized by the courts as well. These regulations have flouted the Internal Revenue Code for more than half a century, and with them the IRS created a door to tax-exempt political activity that was never established by Congress.

That door swung wide open with the Supreme Court's 5-4 ruling in *Citizens United v. FEC*, which granted nonprofits and other private entities the unfettered right to influence the outcome of federal elections without disclosing their donors to the Federal Election Commission. Since that decision, the number of applications for 501(c)(4) tax-exempt status has more than doubled. Despite the influx of applications, very few organizations have been denied tax-exempt status. In fact, according to the Center for Public Integrity, the IRS has only denied applications to 60 of the 8,214 groups seeking it. It is no surprise that in 2012, nearly a quarter billion dollars spent by outside groups to influence the outcome of our elections came from these 501(c)(4) entities. There are dozens of flagrant examples of 501(c)(4) groups being formed for the purpose of funneling anonymous money to Super PACs. According to the IRS, however, this practice is consistent with the law so long as such transfers are not the "primary" purpose of the tax-exempt organization.

We are asking that you reexamine the IRS rules that wrongfully opened the door to significant political activity by 501(c)(4) groups by establishing a standard that permits 501(c)(4) only *de minimus* or insubstantial amount of work outside its social welfare mission. The new regulation should completely prohibit any 501(c)(4) organization from making expenditures supporting or

opposing a candidate for public office and making monetary or in-kind contributions to political action committees or any other entity engaged in campaign activity.

While this simple revision is no replacement for comprehensive legislation to create a more accountable and transparent campaign finance system, it is an important first step at preventing purely political organizations— of all ideological persuasions —from gaining 501(c)(4) status. As we continue to push for comprehensive campaign finance reform in Congress, we look forward to working with you on a critical rule change that will preserve the true societal value of 501(c)(4) groups and at the same time protect the American taxpayer.

Sincerely,



Theodore E. Deutch
MEMBER OF CONGRESS



Peter Welch
MEMBER OF CONGRESS



Louise M. Slaughter
MEMBER OF CONGRESS



Eleanor Holmes Norton
MEMBER OF CONGRESS



Alcee L. Hastings
MEMBER OF CONGRESS



Lloyd Doggett
MEMBER OF CONGRESS



Zoe Lofgren
MEMBER OF CONGRESS



Elijah E. Cummings
MEMBER OF CONGRESS



Betty McCollum
MEMBER OF CONGRESS



Keith Ellison
MEMBER OF CONGRESS



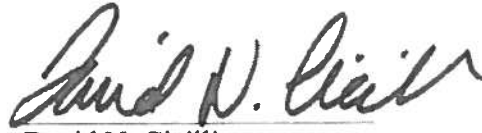
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Steve Cohen
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John Yarmuth
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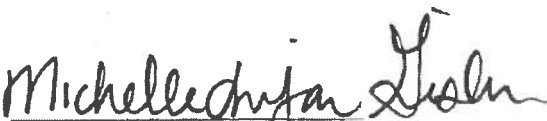
David N. Cicilline
MEMBER OF CONGRESS



Karen Bass
MEMBER OF CONGRESS



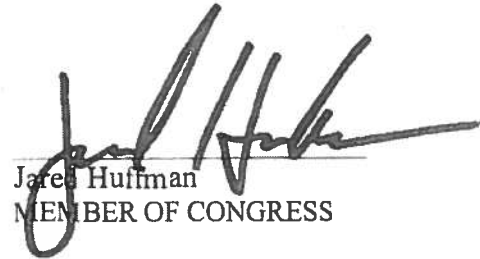
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Jerold Nadler

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