

60 CONSERVATIVE AND FREE MARKET GROUPS SUPPORT H.R. 3865

February 25, 2014

Dear Members of Congress:

We urge you to vote yes on H.R. 3865, the Stop Targeting of Political Beliefs by the IRS Act of 2014.

The IRS confessed to targeting conservative groups in a stunning abuse of power. Now the IRS proposes a draconian rule limiting the lawful activities of these same groups and all others organized under Section 501(c)(4).

The proposed rule would restrict the free speech rights of 501(c)(4) groups by arbitrarily deeming political a wide variety of activities to be in the newly-created category of "Candidate-Related Political Activity," which would include voter registration drives, candidate debates, voter guides, voting records and key votes. It would restrict any criticism of an incumbent federal, state, or local politician within 30 days of a primary or 60 days of a general election and effectively require groups to remove any reference to politicians from their websites during these windows. It even distorts the definition of "candidate" to include appointees, so groups weighing in on executive or judicial nominations would be restricted.

As the American Civil Liberties Union commented to the IRS:

Most social welfare organizations - on both the left and right — serve exactly that function as they see it, the promotion of social welfare and community good. Based on their respective visions, they advocate for the powerless and the voiceless. They promote fiscal responsibility and good government. They serve as a check on government overreach, or as a cheerleader for sound public policy.

In many of these functions, social welfare organizations praise or criticize candidates for public office on the issues and they should be able to do so freely, without fear of losing or being denied tax-exempt status, even if doing so could influence a citizen's vote. Such advocacy is at the heart of our representative democracy. To the extent it influences voting, it does so by promoting an informed citizenry.

The rule proceeds from the false assumption that political engagement and discussion of public policy issues and the merits of nominees who implement them cannot be part and parcel of a social welfare mission. This is not what the law requires and it is inconsistent with longstanding historical practice and understanding.

While Section 501(c)(3) of the tax code specifically bars those organizations from engaging in political activity, no such prohibition exists in Section 501(c)(4). There is therefore no statutory basis for imposing the restrictions the IRS proposes.

The apparent rush from the IRS to implement this ill-considered rule in the middle of the current tax year must be stopped.

H.R. 3865 is a modest measure that would simply prohibit the IRS from finalizing the rule this year, giving it adequate time to consider all of the practical, statutory, and constitutional criticisms of its proposal – as well as giving investigators time to complete their investigations into the targeting scandal before deciding what, if any, legal reforms are appropriate.

We therefore urge you to vote YES on H.R. 3865.

Sincerely,

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