

# **55+ CONSERVATIVE AND FREE MARKETS GROUPS URGE CONGRESS TO STOP IRS 501(C)4 RULE IN OMNIBUS**

January 9, 2014

Dear Members of Congress:

As the people's duly elected representatives, it is imperative that Congress step in and stop the IRS from codifying its suppression of conservative groups. This rogue agency can clearly not be left to police itself, and we therefore urge you to include language in the omnibus appropriations bill to stop the IRS from pursuing rulemaking in this area and to continue robust oversight of this agency.

The IRS confessed to targeting conservative groups in a stunning abuse of power. While initially blamed on a small number of so-called "rogue agents" in Cincinnati, subsequent investigations revealed that high-level IRS officials in Washington, DC actually removed case files of conservative and tea party groups from Cincinnati to Washington, where they stalled action for years, sent lengthy and intrusive questionnaires, and undermined the rights of association and speech of conservatives.

Nobody has been held accountable for these outrageous abuses. Indeed, the apparent ringleader of the suppression scheme, Lois Lerner, was granted six months of paid administrative leave and then allowed to retire with her full pension. Suppression of political dissent has been rewarded. Even worse, the IRS now proposes not to rectify its own misbehavior, but to blame the victims and effectively codify its own misdeeds by adopting draconian limitations on the free speech rights of 501(c)4 social welfare groups via regulation.

The IRS proposal would restrict the free speech rights of such groups by arbitrarily deeming political a wide variety of activities in the newly-created category of "Candidate-Related Political Activity," which includes voter registration drives, candidate debates, voter guides, voting records and key votes. They 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. They even distort the definition of "candidate" to include appointees, so groups weighing in on executive or judicial nominations would be restricted.

These draconian rules will effectively muzzle 501(c)4 groups in the run-up to November's mid-term elections while unfairly exempting 501(c)5 labor unions that support liberal candidates and causes.

The rules proceed from the assumption that political engagement and discussion of health care, government spending, and other public policy issues and the merits of nominees who implement them cannot logically 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 statutory prohibition exists in Section 501(c)(4). For half a century the IRS has defined "social welfare" in our democratic society to include activities such as nonpartisan get-out-the-vote drives, voter registration, and voter education on issues of public concern.

The 501(c)(4) category has always been the home of groups that advocate public policy and hold politicians accountable for the policies they pursue at every level of government. The IRS is disregarding these facts and severely limiting rights of association and speech, especially for smaller grassroots groups that cannot easily afford high-priced lawyers to navigate complex new rules.

This latest IRS power grab must be stopped, and we urge you to do so in the omnibus appropriations bill.

Sincerely,

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