



Silencing of the (Citizen) Lambs

Cleta Mitchell, Esq.
January 6, 2014



LLP Golden Rules: Enter the IRS...



Huffington Post, May 10, 2013

IRS Apologizes For Inappropriately Targeting Conservative Political Groups In 2012 Election

“IRS agents singled out dozens of organizations for additional reviews because they included the words “tea party” or “patriot” in their exemption applications, said Lois Lerner, who heads the IRS division that oversees tax-exempt groups. In some cases, groups were asked for lists of donors, which violates IRS policy in most cases, she said.”

LLP Golden Rules:

IRS Takes Aim at 501c4s



On Nov. 29, 2013 – IRS issued proposes rules that will treat as *candidate-related* political activities the following:

- **Voter registration**
- **Candidate forums and debates**
- **Voter guides**
- **Voting records of incumbents**
- **Public statements by officers and leaders of c4s that reference incumbents and candidates**

LLP Golden Rules:

IRS Takes Aim at 501c4s



- **Communications include radio, tv, written, newspaper, internet, phones and *oral* if can reach 500 people**
- **If voting records or other statements are posted on website – and remain on website within “blackout” period, converted to a candidate-related political expenditure**
- **Applies to volunteer activities sponsored by organization**

LLP Golden Rules:

IRS Takes Aim at 501c4s



- **“Candidates” include all public offices, executive, legislative and judicial – partisan and nonpartisan, and ‘officers in a political organization’**
- **Contributions to a c4 that engages in any ‘CRPA’ will be treated as 100% political**
- **‘express advocacy’ uses broader definition, includes ‘reject’ as a ‘magic word’ and adopts a subjective test (“communication is perceived as having electoral meaning...”)**

LLP Golden Rules: IRS Takes Aim at 501c4s



■ **Proposed rules do not include:**

- » labor unions
- » Trade associations
- » 501c3 organizations

Only 501c4 groups.

Wall Street Journal study documented \$4.4 billion in political expenditures by labor unions 2005-2011. US Chamber of Commerce (c6) announced plans to spend \$50 million in political campaigns in 2014.

LLP Golden Rules:

Do NOT Let the IRS Silence You!



- **Organize and comment by Feb 27, 2014**
- **Comment on these proposed rules:**
 - » Discriminatory by only applying to 501c4 organizations
 - » violate First Amendment rights of citizens and organizations
 - » Are complicated, complex and will burden small citizens groups
 - » Political and lobbying activities ARE for the social welfare and the public good

LLP Golden Rules:

Do NOT Let the IRS Silence You!



- **Give examples of things that a c4 should be able to do without government interference, taxation and reporting:**
 - » Candidate forums and debates
 - » Nonpartisan Voter registration
 - » Get-out-the-vote
 - » Issue guides
 - » Voting records of incumbents
 - » Grassroots lobbying 365 days per year!
 - » Volunteer programs should NOT be subject to taxation

Submitting comments by mail



Mail your comments (original and 8 copies) to:

CC:PA:LPD:PR (REG-134417-13) Room 5205

Internal Revenue Service

P.O. Box 7604 Ben Franklin Station

Washington, DC 20044.

Hand-Delivered Comments



Hand-Deliver Comments Monday through Friday between 8 am and 4 pm – original + 8 copies

CC:PA:LPD:PR (REG-134417-13)

Courier's Desk

Internal Revenue Service

1111 Constitution Avenue NW.

Washington, DC

Online submissions



**Email comments via the Federal
eRulemaking Portal at
*<http://www.regulations.gov>***

**Include this citation:
IRS REG-134417-13**

That will take you to the comments page.

Make Your Voice Heard!

The top right corner of the slide features a partial view of the U.S. Capitol dome, showing its iconic white columns and dome structure against a clear blue sky.

- **Submit comments**
- **Tell others**

- **www.WeWillNotBeSilenced.ORG**

Questions?



Cleta Mitchell, Esq.
Foley & Lardner, LLP
3000 K Street, NW #600
Washington, DC 20007
(202) 295-4081
cmitchell@foley.com