

February 27, 2014

Ms. Amy F. Giuliano  
Office of the Associate Chief Counsel (Tax Exempt and Government Entities)  
CC:PA:LPD:PR (REG-134417-13)  
Room 5205  
Internal Revenue Service  
P.O. Box 7604, Ben Franklin Station  
Washington, DC 20044  
VIA FEDERAL E-RULEMAKING PORTAL

RE: PROPOSED GUIDANCE FOR TAX-EXEMPT SOCIAL WELFARE  
ORGANIZATIONS ON CANDIDATE-RELATED POLITICAL ACTIVITIES

Dear Ms. Giuliano:

The organizations that join in submitting these comments are leading national advocates on some of the major public policy issues facing our country, and many of us regularly find ourselves at odds with each other on those issues. We come together to submit these comments to demonstrate the breadth of the concern triggered by the Notice of Proposed Rulemaking (“NPRM”) proposing a new definition of ‘candidate-related political activity’ for 501(c)(4) social welfare organizations and possibly other types of tax-exempt organizations.

The bulleted list below summarizes the comments and concerns about the NPRM that our organizations share. In addition to these matters, many of our organizations are filing or co-signing additional comments to expand on the points below, to raise additional issues, or to highlight issues on which there is not agreement among the co-signers to these comments.

- Despite the NPRM’s stated goal of creating a clear rule that is easy to follow and administer, the proposed rules would create significant burdens in implementation, by requiring organizations to, for example:
  - to track and report activities based on multiple definitions of political activity;
  - allocate costs for previous communications that remain available (e.g. on a website) within the 30- or 60-day pre-election time periods; and
  - calculate the value of the efforts of volunteers to the organization.
- Whatever rules are crafted defining political activity should apply as universally as possible throughout the tax code, applying not only to 501(c)(4)s, but also to other 501(c)s, and also

applying, to the degree possible, to other matters, including the proxy tax paid by some 501(c) entities under 6033(e), the denial of a business expense deduction under 162(e)(1)(B), and the taxability of political activities under 527(f).

- Whatever limits on political activity are set for 501(c)(4)s should also apply to 501(c)(5)s, 501(c)(6)s, and other 501(c)s.
- The definition of “candidate” should not include persons:
  - who have taken steps to seek non-elective public office, or positions as officers of non-governmental political organizations; or
  - who are merely “proposed by others” (such as bloggers or news media outlets) as candidates but whom the organization making the communication has not referred to as a candidate.
- The proposed rules treat as political a host of activities that are now and should continue to be defined as non-political, rather than discarding years of IRS rulings, guidance and precedent:
  - nonpartisan voter registration
  - nonpartisan get-out-the-vote efforts
  - nonpartisan voter guides
  - candidate debates and forums
  - events prior to an election that feature government officials who are candidates
  - lobbying and other communications near an election that mention a candidate or political party in a non-election-related context (including old references still available on an organization’s website)
- An organization official’s personal political activities should not be attributed to the organization unless such activities are either subsidized or endorsed by the organization.
- Grants to another 501(c) organization should not be treated as a political expenditure if the contribution is reasonably structured to prevent use of the funds for, or it is otherwise clear that, the funds will not be used for political activity.

We request that, in light of the significant problems with the rule as proposed, the Department of the Treasury not issue any final rule until after the Department considers all comments and testimony received on this proposed rule, issues a new proposed rule reflecting the comments received, and takes additional comments on that new proposed rule. We ask that as part of both the current and the subsequent comment process, Treasury conduct hearings on the NPRM across the country to ensure that smaller nonprofits have the opportunity to participate.

In crafting a new rule, the co-signers further urge Treasury to consider the recommendations of the Bright Lines Project ([www.brightlinesproject.org](http://www.brightlinesproject.org)) and the Commission on Accountability and Policy for Religious Organizations ([www.religiouspolicycommission.org](http://www.religiouspolicycommission.org)). Although not all of the co-signers endorse each of or all of the aspects of these proposals, the co-signers do agree that each of these proposals includes at least some significant elements that are better than the approach in the proposed regulations.

Thank you for your careful consideration of these comments.

Sincerely,

America's Voice  
American Civil Liberties Union  
American Conservative Union  
Americans for Responsible Solutions  
Citizens United  
FreedomWorks  
Hispanic Leadership Fund  
National Immigration Forum  
National Organization for Marriage  
Public Citizen  
Sixty Plus  
Traditional Values Coalition