

Summary of H.R. 3865, “Stop Targeting of Political Beliefs by the IRS Act of 2014”

Short Summary

H.R. 3865 – introduced by Ways and Means Committee Chairman Dave Camp (R-MI) – would prohibit, for one year, Treasury and the Internal Revenue Service (IRS) from finalizing their proposed 501(c)(4) regulations issued in November 2013, or otherwise changing the rules governing 501(c)(4) organizations. The proposed new rules would significantly limit the First Amendment rights of 501(c)(4) organizations, especially the Administration’s critics.

Administration’s Proposed Rule Silences 501(c)(4)s, While Unions Unaffected

Under regulations in place for over fifty years, an organization is eligible for a tax exemption under section 501(c)(4) of the Internal Revenue Code if it is primarily engaged in promoting the common good and general welfare. 501(c)(4)s can engage in some political campaign intervention— (e.g., “Vote for Mary,” or “Vote against Bob”) —so long as the organization is primarily engaged in activities that promote social welfare. Other activities that promote the common good – such as non-partisan get-out-the-vote (GOTV) efforts, voter registration drives and candidate forums – are NOT considered political activity by the IRS under longstanding law, irrespective of the type of organization that engages in such activities. Thus, even 501(c)(3) charitable organizations -- along with (c)(4) social welfare organizations, (c)(5) unions, and (c)(6) chambers of commerce -- can engage in these activities without jeopardizing their tax-exempt status.

Under the proposed rules published on November 29, 2013, however, 501(c)(4) organizations – and only 501(c)(4) organizations – would face additional, unprecedented scrutiny, under which their non-partisan GOTV efforts, voter registration drives, and candidate forums would be treated as campaign intervention and could therefore jeopardize their tax-exempt status.

The effect of the proposed rules, in fact, would be even broader: Today, for instance, it is permissible for a 501(c)(4) organization to urge Americans to contact their Senators to oppose a nomination to the Federal courts or the Executive Branch by President Obama. Under the proposed rules, however, such activity would be considered political campaign intervention and would jeopardize the group’s tax-exempt status.

The proposed new regulations clearly target the Administration’s critics. The Ways and Means Committee’s ongoing investigation has revealed that the primary activities of most of the right-leaning groups that were targeted by the IRS were those engaged in activities related to GOTV, voter registration and candidate forums. Also, the investigation has shown that the rationale given by Treasury and the IRS for the proposed rule change — that there was confusion about how to apply the law governing 501(c)(4)s revealed by the IRS’ targeting scandal — has been shown to be baseless. Indeed, the first Tea Party cases were flagged for “media interest,” not confusion, and it was recently revealed that the new proposed rules have been secretly under consideration since at least 2011, well before the IRS’s targeting of conservative groups came to light.

H.R. 3865 Stops Treasury from Implementing Proposed Regulations

H.R. 3865 provides that the criteria as in effect on January 1, 2010 (before the targeting of right-leaning groups) used to determine whether an organization is operated exclusively for the promotion of social welfare for purposes of section 501(c)(4), shall remain in effect. Treasury and IRS would be barred from issuing or finalizing any regulation, including the November 29, 2013 proposed rule, which changes the applicable law. The proposal would sunset one year after enactment, and, according to the Joint Committee on Taxation, would result in a negligible revenue loss over 2014-2024.