

Email to IRS on February 23, 2014

Re: The Internal Revenue Service (IRS) Proposed Rule: Guidance for Tax-Exempt Social Welfare Organizations on Candidate-Related Political Activities

Please change your current proposal to make sure that truly nonpartisan voter service activities by organizations such as the League of Women Voters can continue. The existing standards currently applied to 501(c)(3) organizations governing nonpartisan election activities should also be applied to (c)(4) organizations.

1) Truly nonpartisan voter service activity must be allowed. The proposed IRS definition of “candidate-related political activity” errs by including truly nonpartisan voter service activities by organizations like the League. This should be corrected by applying the highly articulated “facts and circumstances” tests currently used by the IRS for 501(c)(3) organizations to 501(c)(4) organizations as well. In addition, this body of law for 510(c)(3) organizations provides sufficient guidance to those organizations and should not be disturbed by the IRS.

2) The “dark money” system must be stopped, and the exploitation of the 501(c)(4) status by organizations that intervene in candidate elections must be eliminated. The IRS should prohibit “candidate-related political activity” by 501(c)(4) organizations. The Internal Revenue Code is clear that 501(c)(4) organizations must be “operated exclusively for the promotion of social welfare.” It simply is not a social welfare activity to work in ways that influence the election or defeat of clearly identified candidates for public office.

3) The IRS should ensure that other 501(c) organizations don’t become a new vehicle for groups to hide the sources of vast sums spent on candidate elections.

4) Since any organization or group of individuals can form a tax-exempt 527 organization, the elimination of “candidate-related political activity” by 501(c) groups does not ban any activity, it simply directs funds to a 527, where they are disclosed.

5) Candidate-related political activity” should be defined as:
a) mass paid public communications, such as broadcast advertising, phone banking, mass mailings, outgoing mass electronic messages, and mass leaflets
b) that use the name or likeness of a candidate or otherwise clearly identify a candidate or political party.

6) “Candidate-related political activity” should not include:
a) Communications to an organization’s “members,” “supporters,” or other designated individuals who have affirmatively and actively asked to be associated with the organization.
b) Taking a position on or advocating for a ballot initiative or referendum.

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