

IRS Rulemaking Team Shared Principles

June 17, 2015

1. We concur with the decision of the Department of the Treasury and the Internal Revenue Service (hereinafter “Treasury”) to withdraw the November 29, 2013 proposal to define candidate-related political activity for social welfare groups. At the same time, we applaud Treasury for undertaking another rulemaking to establish a clear definition of political activity. We hope the new proposal will apply to all tax exempt organizations and will protect free speech and encourage nonpartisan civic engagement while preventing abuses of the system.
2. We acknowledge that unclear rules have long been a problem in the nonprofit sector. We know the lack of clarity in the rules has forced nonprofits to refrain from some activities for fear that their permissible statements or actions might be interpreted as political activity. We are concerned that unclear rules also allow abuse by political operatives and organizations that flout the restrictions on their claimed tax-exempt status. We support a clear path to compliance for exempt organizations. An easy-to-follow definition of political activity would help restore the public trust in government oversight and in the regulated community's compliance.
3. We are concerned about the increasing amount of political spending by groups – 501(c)(4)s and others—that are not required to disclose the big money donors that give in support of their political efforts. We support reforms in this area, including requiring greater disclosure of the funding behind these activities. Treasury should make sure in crafting these rules that it does not create inconsistent rules for various types of tax-exempt and taxable organizations that would encourage shifts in political funding between different vehicles to avoid disclosure.
4. We believe that civic engagement is critical to an effective democracy. Nonprofits that engage in nonpartisan civic engagement activities, such as registering all eligible people to vote, urging them to vote, and providing nonpartisan resources to help them make informed judgments about policies and candidates, are a benefit to our society. Treasury should make clear that these types of nonpartisan actions are permissible charitable activities, are not considered political activity, and should encourage nonprofits to undertake such work in order to strengthen democratic participation.
5. We believe the IRS should provide adequate time for public comment on the notice of proposed rulemaking and host at least one public forum, but should also move swiftly to finalize the rules no later than mid-2016 with an effective date applying to an organization’s fiscal year starting after December 31, 2016.