113TH CONGRESS
2d Session
HOUSE OF REPRESENTATIVES
REPORT
113–353

STOP TARGETING OF POLITICAL BELIEFS BY THE IRS ACT OF 2014

FEBRUARY 18, 2014.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. CAMP, from the Committee on Ways and Means, submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 3865]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 3865) to prohibit the Internal Revenue Service from modifying the standard for determining whether an organization is operated exclusively for the promotion of social welfare for purposes of section 501(c)(4) of the Internal Revenue Code of 1986, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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39–006

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Stop Targeting of Political Beliefs by the IRS Act of 2014".

SEC. 2. APPLICABLE STANDARD FOR DETERMINATIONS OF WHETHER AN ORGANIZATION IS OPERATED EXCLUSIVELY FOR THE PROMOTION OF SOCIAL WELFARE.

(a) IN GENERAL.—The standard and definitions as in effect on January 1, 2010, which are used to determine whether an organization is operated exclusively for the promotion of social welfare for purposes of section 501(c)(4) of the Internal Revenue Code of 1986 shall apply for purposes of determining the status of organizations under section 501(c)(4) of the Internal Revenue Code of 1986 after the date of the enactment of this Act.

(b) PROHIBITION ON MODIFICATION OF STANDARD.—The Secretary of the Treasury may not (nor may any delegate of such Secretary) issue, revise, or finalize any regulation (including the proposed regulations published at 78 Fed. Reg. 71535 (November 29, 2013)), revenue ruling, or other guidance not limited to a particular taxpayer relating to the standard and definitions specified in subsection (a).

(c) APPLICATION TO ORGANIZATIONS.—Except as provided in subsection (d), this section shall apply with respect to any organization claiming tax exempt status under section 501(c)(4) of the Internal Revenue Code of 1986 which was created on, before, or after the date of the enactment of this Act.

(d) SUNSET.—This section shall not apply after the one-year period beginning on the date of the enactment of this Act.

I. SUMMARY AND BACKGROUND

A. PURPOSE AND SUMMARY

H.R. 3865 provides that the criteria as in effect on January 1, 2010, used to determine whether an organization is operated exclusively for the promotion of social welfare for purposes of section 501(c)(4) of the Internal Revenue Code shall remain in effect. The Department of the Treasury (Treasury Department) and the Internal Revenue Service (IRS) would be barred from issuing or finalizing any regulation, including the proposed regulations issued on November 29, 2013 (*see* 78 Fed. Reg. 71535), that would change the applicable law. The proposal would sunset one year after enactment.

B. BACKGROUND AND NEED FOR LEGISLATION

Under regulations in place for over 50 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. Section 501(c)(4) social welfare groups can engage in political campaign intervention, so long as the organization is primarily engaged in activities that promote social welfare. Examples of activities that promote social welfare (and are not, therefore, considered political campaign intervention) include:

get-out-the-vote (GOTV) drives, voter registration efforts, and candidate forums. Thus, a section 501(c)(4) social welfare organization can engage in these activities without jeopardizing its tax-exempt status.

On November 29, 2013, the Treasury Department proposed regulations (78 Fed. Reg. 71535) that categorically exclude from the definition of the promotion of social welfare certain activities defined as "candidate-related political activity." Candidate-related political activity includes: GOTV drives, voter registration efforts, and candidate forums. Under the proposed regulations, section 501(c)(4) organizations could engage in some candidate-related political activity, but such activity would no longer be considered the promotion of social welfare, and could jeopardize their tax-exempt status. Other tax-exempt organizations, such as 501(c)(3) charitable organizations, 501(c)(5) unions, and 501(c)(6) chambers of commerce would be unaffected by the proposed rule.

The Ways and Means Committee's ongoing investigation has found that the primary activities of many of the right-leaning 501(c)(4) groups that were targeted by the IRS included: GOTV, voter registration, and candidate forums. The proposed new rules would adversely affect many of these groups, forcing them to cease many of these activities to avoid jeopardizing their exempt status. The investigation also has revealed that the rationale given by the Treasury Department and the IRS for the proposed rule change—that confusion about how to apply the law governing 501(c)(4) organizations was to blame for the targeting—is baseless. Indeed, 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 right-leaning groups came to light.

The Treasury Inspector General for Tax Administration audit report, "Inappropriate Criteria Were Used to Identify Tax-Exempt Applications for Review," issued on May 14, 2013, found that groups were subjected to extra scrutiny on the basis of name—for example, "Tea Party"—and policy position starting in early 2010. The Committee's investigation has further found that Tea Party applications were being received, processed and approved before this time. Thus, H.R. 3865 fixes the standards for determining exempt status at January 1, 2010, which pre-dates the targeting. The bill would further provide a one-year delay on the promulgation of the proposed new rules, as well as other guidance, so that the Committee can complete its investigation, including an examination of the process by which these regulations were drafted.

C. Legislative History

Background

H.R. 3865 was introduced on January 14, 2014, and was referred to the Committee on Ways and Means.

Committee action

The Committee on Ways and Means marked up H.R. 3865, the Stop Targeting of Political Beliefs by the IRS Act of 2014, on February 11, 2014, and ordered the bill, as amended, favorably reported (with a quorum being present).

Committee hearings

The Committee has held numerous hearings about IRS targeting. On May 17, 2013, the full Committee received testimony on the IRS's practice of discriminating against applicants for tax-exempt status based on the political leanings of the applicants. Witnesses included Steve Miller, then-Acting Commissioner of the IRS, and J. Russell George, Treasury Inspector General for Tax Administration. On June 4, 2013, the full Committee received testimony on organizations that were targeted as part of the IRS's practice of discriminating against applicants for tax-exempt status based on their personal beliefs from victims. On June 27, 2013, the full Committee received testimony on the IRS's 30-day report on the practice of discriminating against applicants for tax-exempt status based on their personal beliefs from Daniel Werfel, then-Principal Deputy Commissioner and Deputy Commissioner for Services and Enforcement of the IRS.

The Committee also has held hearings at the subcommittee level. On September 18, 2013, the Subcommittee on Oversight received testimony on the current state and practices of the IRS's Exempt Organizations Division following the May 14, 2013, TIGTA audit report and then-Principal Deputy Commissioner Werfel's June 25, 2013, report from Daniel Werfel, then-Acting Commissioner of the IRS. On February 5, 2014, the Subcommittee on Oversight received testimony on issues facing the IRS, including consideration of the proposed new rule, from newly confirmed IRS Commissioner John Koskinen.

II. EXPLANATION OF THE BILL

A. Applicable Standard for Determining Whether an Organization is Operated Exclusively for the Promotion of Social Welfare

PRESENT LAW

Section 501(c)(4) organizations, in general

Section 501(c)(4) provides a tax exemption for civic leagues or organizations not organized for profit, but operated exclusively for the promotion of social welfare, and no part of the net earnings of which inures to the benefit of any private shareholder or individual.[1] Treasury regulations provide that an organization is operated exclusively for the promotion of social welfare if it is engaged primarily in promoting in some way the common good and general welfare of the people of a community.[2] An organization is not operated primarily for the promotion of social welfare if its primary activity is operating a social club for the benefit, pleasure, or recreation of its members, or is carrying on a business with the general public in a manner similar to organizations that are operated for profit.[3]

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[1] Sec. 501(c)(4). Unless otherwise stated, all section references are to the Internal Revenue Code of 1986, as amended.

[2] Treas. Reg. secs. 1.501(c)(4)–1(a)(1) and (2)(i).

[3] Treas. Reg. sec. 1.501(c)(4)–1(a)(2)(i).

Political campaign activities of section 501(c)(4) organizations

Treasury regulations further provide that the promotion of social welfare does not include "direct or indirect participation or intervention in political campaigns on behalf of or in opposition to any candidate for public office" (herein, "political campaign intervention").[4] However, social welfare organizations are permitted to engage in political campaign intervention so long as the organization is primarily engaged in activities that promote social welfare.[5]

Whether an activity constitutes political campaign intervention (and thus does not promote social welfare) depends on all the facts and circumstances of the particular case.[6] The rules concerning political campaign intervention apply only to activities involving candidates for elective public office; the rules do not apply to activities involving officials who are selected or appointed, such as executive branch officials and judges.

Similar rules apply for determining whether other types of section 501(c) organizations have engaged in political campaign intervention, including charities (section 501(c)(3)), labor and horticultural organizations (section 501(c)(5)), and business leagues (section 501(c)(6)). However, while sections 501(c)(4), (5), and (6) organizations may engage in some political campaign intervention without jeopardizing exempt status, section 501(c)(3) organizations are prohibited from engaging in any political campaign intervention.[7]

The lobbying and advocacy activities of a section 501(c)(4) organization generally are not limited, provided the activities are in furtherance of the organization's exempt purpose.

Proposed regulations relating to the political campaign activities of section 501(c)(4) organizations

On November 29, 2013, the Department of the Treasury and the Internal Revenue Service ("IRS") published proposed regulations regarding the political campaign activities of section 501(c)(4) organizations.[8] The proposed regulations seek to replace the present-law facts-and-circumstances test used in determining whether a section 501(c)(4) organization has engaged in political campaign intervention with an enumerated list of activities that constitute political campaign activities (and which therefore do not promote social welfare).[9]

The proposed regulations replace the political campaign intervention reference in the existing section 501(c)(4) regulations (*i.e.*, "direct or indirect participation or intervention in political campaigns on behalf of or in opposition to any candidate for public office")

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[4] Treas. Reg. sec. 1.501(c)(4)–1(a)(2)(ii).

[5] See Rev. Rul. 81–95, 1981–1 C.B. 332.

[6] See, *e.g.*, Rev. Rul. 2007–41, 2007–25 I.R.B. 1421 (June 18, 2007) (analyzing 21 different factual scenarios involving section 501(c)(3) charitable organizations for political campaign intervention); Rev. Rul. 81–95, 1981–1 C.B. 332 (referencing section 501(c)(3) standards in determining whether activities of a section 501(c)(4) organization constitute political campaign intervention).

[7] Sec. 501(c)(3).

[8] Notice of Proposed Rulemaking, *Guidance for Tax-Exempt Social Welfare Organizations on Candidate-Related Political Activities* REG–134417–13, 78 Fed. Reg. 71535 (November 29, 2013); incorporating Prop. Treas. Reg. secs. 1.501(c)(4)–1(a)(2)(ii), (a)(2)(iii), and (c).

[9] Notice of Proposed Rulemaking, *Guidance for Tax-Exempt Social Welfare Organizations on Candidate-Related Political Activities* REG–134417–13, 78 Fed. Reg. 71535 (November 29, 2013), p. 71536.

with a new defined term, "candidate-related political activity."[10] Candidate-related political activity means: (1) communications that express a view on, whether for or against, the selection, nomination, election, or appointment of one or more clearly identified candidates (often referred to as express advocacy communications); (2) certain public communications (as defined) within 30 days of a primary election or 60 days of a general election that refer to one or more clearly identified candidates, or in the case of a general election, one or more political parties; (3) communications the expenditures for which are reported to the Federal Election Commission; (4) contributions (including gifts, grants, subscriptions, loans, advances, or deposits) of money or anything of value to or the solicitation of contributions on behalf of a candidate, a section 527 political organization, or a section 501(c) organization that engages in candidate-related political activity; (5) conduct of a voter registration drive or "get-out-the-vote" drive; (6) distribution of any material prepared by or on behalf of a candidate or by a section 527 political organization; (7) preparation or distribution of a voter guide that refers to one or more clearly identified candidates, or in the case of a general election to one or more political parties; and (8) hosting or conducting a forum for candidates within 30 days of a primary election or 60 days of a general election.[11]

For purposes of defining candidate-related political activity, the proposed regulations define the term "candidate" to mean "an individual who publicly offers himself, or is proposed by another, for selection, nomination, election, or appointment to any federal, state, or local public office or office in a political organization, or to be a Presidential or Vice-Presidential elector, whether or not such individual is ultimately selected, nominated, elected, or appointed," including officeholders who are the subject of a recall election;[12] this includes certain judicial and executive branch appointments.

The proposed regulations apply only to section 501(c)(4) organizations.[13] Other section 501(c) organizations (including section 501(c)(3) charitable organizations, section 501(c)(5) labor and horticultural organizations, and section 501(c)(6) business leagues) will continue to use present-law rules concerning political campaign intervention.

The proposed regulations are not immediately effective. They are proposed to be effective on the date they are published in the Federal Register as final regulations.[14]

REASONS FOR CHANGE

On May 14, 2013, the Treasury Inspector General for Tax Administration issued an audit report concluding that the IRS used

[10] Prop. Treas. Reg. secs. 1.501(c)(4)–1(a)(2)(ii) and (iii).
[11] Prop. Treas. Reg. sec. 1.501(c)(4)–1(a)(2)(iii)(A).
[12] Prop. Treas. Reg. sec. 1.501(c)(4)–1(a)(2)(iii)(B)(1).
[13] Notice of Proposed Rulemaking, *Guidance for Tax-Exempt Social Welfare Organizations on Candidate-Related Political Activities* REG–134417–13, 78 Fed. Reg. 71535 (November 29, 2013), p. 71537.
[14] Prop. Treas. Reg. sec. 1.501(c)(4)–1(c). In the notice of proposed rulemaking, the IRS seeks comments on a number of issues, including: (1) whether the existing regulation that provides that an organization is operated exclusively for social welfare if it is engaged primarily in promoting in some way the common good and general welfare of the people of a community should be modified; and (2) whether the rules included in the proposed regulations should be extended to other section 501(c) organizations or to section 527 political organizations. Notice of Proposed Rulemaking, *Guidance for Tax-Exempt Social Welfare Organizations on Candidate-Related Political Activities* REG–134417–13, 78 Fed. Reg. 71535 (November 29, 2013), p. 71537.

inappropriate criteria to identify certain applications for tax exemption for heightened review. In response to the Inspector General's report, the Committee on Ways and Means continues to investigate the procedures and criteria used by the IRS in reviewing applications for exemption, particularly applications filed by organizations seeking recognition of their status as social welfare organizations under section 501(c)(4).

The Committee believes that, in light of the ongoing investigation and the need for a more deliberative process, it is appropriate, for a one-year period, to: (1) require that the IRS use the standards and definitions in effect as of January 1, 2010, for determining whether an organization is operated exclusively for the promotion of social welfare for purposes of section 501(c)(4); and (2) prohibit the Secretary of the Treasury and the IRS from issuing, revising, or finalizing any regulations (including the proposed regulations issued November 29, 2013) or other guidance modifying such standards and definitions. This one-year period will afford the Committee the opportunity to complete its investigation and will allow the IRS and the Congress to consider more fully the numerous concerns that have been raised about the proposed regulations, including whether the proposed regulations will have the effect of discouraging legitimate tax-exempt activity.

EXPLANATION OF PROVISION

Under the provision, the standards and definitions as in effect on January 1, 2010, which are used to determine whether an organization is operated exclusively for the promotion of social welfare for purposes of section 501(c)(4), shall apply for determining the tax-exempt status of organizations under section 501(c)(4).

The provision also provides that neither the Secretary of the Treasury nor any delegate of the Secretary may issue, revise, or finalize any regulation (including the November 29, 2013 proposed regulations described above), revenue ruling, or other guidance that is not limited to a particular taxpayer relating to the standards or definitions used to determine whether an organization is operated exclusively for the promotion of social welfare for purposes of section 501(c)(4).

The provision applies with respect to any organization claiming tax-exempt status as an organization described in section 501(c)(4) that was created on, before, or after the date of enactment.

The provision sunsets such that it does not apply after the one-year period beginning on the date of enactment.

EFFECTIVE DATE

The provision is effective on the date of enactment.

III. VOTES OF THE COMMITTEE

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the vote of the Committee on Ways and Means in its consideration of H.R. 3865, the "Stop Targeting of Political Beliefs by the IRS Act of 2014."

The bill, H.R. 3865, was ordered favorably reported to the House of Representatives as amended by a rollcall vote of 23 yeas to 13 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Camp	X			Mr. Levin		X	
Mr. Johnson	X			Mr. Rangel		X	
Mr. Brady	X			Mr. McDermott		X	
Mr. Ryan	X			Mr. Lewis			
Mr. Nunes	X			Mr. Neal			
Mr. Tiberi	X			Mr. Becerra		X	
Mr. Reichert	X			Mr. Doggett		X	
Mr. Boustany	X			Mr. Thompson		X	
Mr. Roskam	X			Mr. Larson		X	
Mr. Gerlach	X			Mr. Blumenauer		X	
Mr. Price	X			Mr. Kind		X	
Mr. Buchanan	X			Mr. Pascrell		X	
Mr. Smith	X			Mr. Crowley		X	
Mr. Schock	X			Ms. Schwartz			
Ms. Jenkins	X			Mr. Davis		X	
Mr. Paulsen	X			Ms. Sánchez		X	
Mr. Marchant	X						
Ms. Black	X						
Mr. Reed	X						
Mr. Young	X						
Mr. Kelly	X						
Mr. Griffin	X						
Mr. Renacci	X						

IV. BUDGET EFFECTS OF THE BILL

A. Committee Estimate of Budgetary Effects

In compliance with clause 3(d) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the effects on the budget of the bill, H.R. 3865, as reported.

The bill, as reported, is estimated to result in a negligible reduction in Federal budget receipts for 2014–2024.

B. Statement Regarding New Budget Authority and Tax Expenditures Budget Authority

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee states that the bill involves no new or increased budget authority. The Committee states further that the bill involves no new or increased tax expenditures.

C. Cost Estimate Prepared by the Congressional Budget Office

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, requiring a cost estimate prepared by the Congressional Budget Office ("CBO"), the following statement by CBO is provided.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, February 14, 2014.

Hon. DAVE CAMP,
Chairman, Committee on Ways and Means,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3865, the Stop Targeting of Political Beliefs by the IRS Act of 2014.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Matthew Pickford.

Sincerely,

DOUGLAS W. ELMENDORF, *Director.*

Enclosure.

H.R. 3865—Stop Targeting of Political Beliefs by the IRS Act of 2014

H.R. 3865 would amend federal law relating to certain tax-exempt nonprofit organizations. Specifically, the bill would require the Internal Revenue Service (IRS) to continue to use certain standards and definitions in effect on January 1, 2010, for determining whether an organization qualifies for tax-exempt status under section 501(c)(4) of the Internal Revenue Code. In addition, H.R. 3865 would prohibit the agency from issuing, revising, or finalizing any regulation related to those standards and definitions. The legislation's provisions would sunset one year after enactment.

CBO estimates that implementing the legislation would have no significant impact on IRS administrative costs, which are subject to appropriation. The staff of the Joint Committee on Taxation (JCT) estimates that enacting H.R. 3865 would result in a negligible loss of revenues over the 2014–2024 period, therefore, pay-as-you procedures apply.

JCT has determined that the bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

The CBO staff contact for this estimate is Matthew Pickford. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

D. MACROECONOMIC IMPACT ANALYSIS

In compliance with clause 3(h)(2) of rule XIII of the Rules of the House of Representatives, the following statement is made by the staff of the Joint Committee on Taxation with respect to the provisions of the bill amending the Internal Revenue Code of 1986: the effects of the bill on economic activity are so small as to be incalculable within the context of a model of the aggregate economy.

V. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

A. COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives (relating to oversight findings), the Committee advises that it was as a result of the Committee's review of

the provisions of H.R. 3865 that the Committee concluded that it is appropriate to report the bill, as amended, favorably to the House of Representatives with the recommendation that the bill do pass.

B. Statement of General Performance Goals and Objectives

With respect to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee advises that the bill contains no measure that authorizes funding, so no statement of general performance goals and objectives for which any measure authorizes funding is required.

C. Information Relating to Unfunded Mandates

This information is provided in accordance with section 423 of the Unfunded Mandates Reform Act of 1995 (Pub. L. No. 104–4).

The Committee has determined that the bill does not contain Federal mandates on the private sector. The Committee has determined that the bill does not impose a Federal intergovernmental mandate on State, local, or tribal governments.

D. Applicability of House Rule XXI 5(b)

Rule XXI 5(b) of the Rules of the House of Representatives provides, in part, that "A bill or joint resolution, amendment, or conference report carrying a Federal income tax rate increase may not be considered as passed or agreed to unless so determined by a vote of not less than three-fifths of the Members voting, a quorum being present." The Committee has carefully reviewed the bill, and states that the bill does not involve any Federal income tax rate increases within the meaning of the rule.

E. Tax Complexity Analysis

Section 4022(b) of the Internal Revenue Service Restructuring and Reform Act of 1998 (the "IRS Reform Act") requires the staff of the Joint Committee on Taxation (in consultation with the Internal Revenue Service and the Treasury Department) to provide a tax complexity analysis. The complexity analysis is required for all legislation reported by the Senate Committee on Finance, the House Committee on Ways and Means, or any committee of conference if the legislation includes a provision that directly or indirectly amends the Internal Revenue Code and has widespread applicability to individuals or small businesses.

Pursuant to clause 3(h)(1) of rule XIII of the Rules of the House of Representatives, the staff of the Joint Committee on Taxation has determined that a complexity analysis is not required under section 4022(b) of the IRS Reform Act because the bill contains no provisions that amend the Code and that have "widespread applicability" to individuals or small businesses, within the meaning of the rule.

F. Congressional Earmarks, Limited Tax Benefits, and Limited Tariff Benefits

With respect to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee has carefully reviewed the pro-

visions of the bill, and states that the provisions of the bill do not contain any congressional earmarks, limited tax benefits, or limited tariff benefits within the meaning of the rule.

G. Duplication of Federal Programs

In compliance with Sec. 3(j)(2) of H. Res. 5 (113th Congress), the Committee states that no provision of the bill establishes or reauthorizes: (1) a program of the Federal Government known to be duplicative of another Federal program, (2) a program included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or (3) a program related to a program identified in the most recent Catalog of Federal Domestic Assistance, published pursuant to the Federal Program Information Act (Public Law 95–220, as amended by Public Law 98–169).

H. Disclosure of Directed Rule Makings

In compliance with Sec. 3(k) of H. Res. 5 (113th Congress), the following statement is made concerning directed rule makings: The Committee estimates that the bill requires one directed rule making within the meaning of such section. Specifically, Sec. 2 of the bill provides that, for one year beginning on the date of enactment, the Secretary of the Treasury may not (nor may any delegate of such Secretary) issue, revise, or finalize any regulation (including the proposed regulations published at 78 Fed. Reg. 71535 (November 29, 2013)), revenue ruling, or other guidance not limited to a particular taxpayer relating to the standard and definitions as in effect on January 1, 2010, which are used to determine whether an organization is operated exclusively for the promotion of social welfare for purposes of section 501(c)(4) of the Internal Revenue Code of 1986.

VI. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

With respect to clause 3(e) of rule XIII of the Rules of the House of Representatives, the bill, as reported, includes no provisions proposing to repeal or amend an existing statute or part thereof. Therefore, no additional materials otherwise required to be included in this report or any accompanying document under that clause are required to be included with respect to this bill.

VII. DISSENTING VIEWS

This Committee has started the new year where it left off—showing painfully little interest in legislating—and instead pursuing its politically based agenda of seeking to unearth scandal in the IRS where none exists and undermining the Affordable Care Act.

H.R. 3865 would impose an unnecessary one-year delay on any guidance, including the newly proposed 501(c)(4) regulations, on the tax-exempt requirements for social welfare organizations. The Democrats on the Ways and Means Committee were unanimous in their opposition to this bill, as it reiterates the misplaced priorities of the Committee's majority.

This markup was the latest in a series of hearings, press releases, and other statements by the Republicans to revive the failing IRS controversy on the processing of Tea Party applications. Indeed, the title of H.R. 3865 is "Stop Targeting of Political Beliefs by the IRS Act of 2014."

Republicans are using the proposed IRS regulations to try and reignite their baseless allegations that the White House, through the IRS, orchestrated an attack on its political enemies. Even though after the IRS has provided more than 500,000 pages of documents to Congressional committees, five dozen interviews of current and former IRS employees have taken place and lawmakers at fifteen congressional hearings have questioned IRS officials there has been absolutely no evidence that the IRS processing of Tea Party applications was politically motivated "targeting" or connected to the White House.

All six investigations (TIGTA, Federal Bureau of Investigations (FBI), and four Congressional investigations) were launched based on a fundamentally flawed report from the Treasury Inspector General for Tax Administration (TIGTA) who is now the subject of an ethics complaint to the Council of Inspectors General.

It has been repeatedly demonstrated that progressive groups were also negatively affected by the incompetent handling of 501(c)(4) applications. Had the Treasury Inspector General not left out vital information—producing a fundamentally flawed audit report—it may have dissuaded Republicans from immediately accusing the White House of keeping an "enemies list" and trying to turn the audit into a scandal that they are intent on keeping alive, no matter the facts.

H.R. 3865 is nothing more than an attempt to recast the proposed 501(c)(4) regulations as a new "scandal" to replace the old "non-scandal.".

The Republican's argument would make people think that Treasury just spontaneously decided to issue proposed regulations on 501(c)(4) organizations. That is not the case.

The proposed regulations were actually a recommendation of TIGTA. In the May 14, 2013 audit report on tax-exempt applica-

tions, TIGTA recommended to the IRS Chief Counsel and the Department of the Treasury that guidance on how to measure the "primary activity" of 501(c)(4) social welfare organizations be included for consideration in the Department of the Treasury Priority Guidance Plan. Treasury did include this on the 2013–2014 Treasury Priority Guidance Plan released in August 2013. The proposed regulations were then issued in November 2013.

Furthermore, Republicans called for the implementation of TIGTA's recommendations. A Republican Committee Member introduced H.R. 2532, which would require the IRS Commissioner to implement *all* of TIGTA's recommendations, including the recommendation to clarify the 501(c)(4) regulations. *In addition, the joint explanatory statement on the Consolidated Appropriations Act of 2014 (H.R. 3547)* states "The IRS' new management is expected to implement the Treasury Inspector General for Tax Administration recommendations regarding the inappropriate criteria being used to identify tax-exempt applications for review."

Commissioner Koskinen testified that the proposed regulations are generating massive public interest. To date, more than 21,000 comments have been submitted—"a record [number of comments]," Koskinen said. The comment period ends on February 27, 2014. Many of our Democratic colleagues and outside allies have also weighed in on the proposed regulations to ensure that non-partisan voter registration and get out the vote efforts are not negatively impacted. But we start from the premise that the regulation needs to be clarified for organizations across the political spectrum and the Code should not be used to shield political activities and donors.

The fundamental Republican problem here does not lie with these proposed regulations that are nowhere close to becoming final. The fundamental problem is one of campaign finance and that the Republicans will stop at nothing to keep their donors secret.

It is clear that the entire purpose of this one-year delay is to keep the Republicans' donors secret through the next election cycle. In the last election cycle, outside groups reported to the FEC political expenditures of nearly $1 billion. Between 2010 and 2012, applications for 501(c)(4) status nearly doubled, from 1,735 to 3,357. The designation allows organizations to keep their donors secret. Spending during the 2012 election by 501(c)(4)s soared to more than $250 million, from $92 million in 2010 and just $1 million in 2006, according to the Center for Responsive Politics.

It should be noted that all of these groups are welcome to be involved in the political election process and still face no tax by forming as section 527 organizations, commonly called PACs, and disclosing their donors to the public.

The irony of this bill is that, in seeking to delay these regulations for a year under the guise of a "scandal," what really remains hidden are donors to groups pouring millions of dollars into campaign advertising.

In all, more than 150 IRS employees have worked 70,000 hours—time taken away from taxpayer services—to accommodate the ongoing requests for information from congressional investigators. Now, because all of these taxpayer dollars have been wasted with

absolutely no evidence of corruption, the Republicans have pivoted to the 501(c)(4) regulations as their new bogeyman. It is a shameful use of this prestigious Committee that we, the undersigned, strongly oppose.

SANDER M. LEVIN.
CHARLES B. RANGEL.
JIM MCDERMOTT.
JOHN LEWIS.
RICHARD E. NEAL.
XAVIER BECERRA.
LLOYD DOGGETT.
MIKE THOMPSON.
JOHN B. LARSON.
EARL BLUMENAUER.
RON KIND.
BILL PASCRELL, Jr.
JOSEPH CROWLEY.
ALLYSON Y. SCHWARTZ.
DANNY K. DAVIS.
LINDA T. SÁNCHEZ.

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