

## **Nonprofits Say New Proposed IRS Rules Would Hamper Their Advocacy Efforts**

By Alex Daniels

Nonprofits are rallying to protest a set of proposed rules on political activity that the Internal Revenue Service has drafted to prevent abuses by tax-exempt groups.

While the rules would apply only to social-welfare groups, which are classified under Section 501(c)(4) of the tax code, the IRS said it wanted the public to comment on whether similar rules should be applied to charities, which are governed by Section 501(c)(3).

Even if the rules weren't officially extended to charities, the measures would affect them: Many charities have social-welfare arms that allow them to be more directly involved in political campaigns than they otherwise could be under the law.

The proposal's limits on political activities such as get-out-the vote efforts and candidate debates are a "threat to basic grass-roots organizing" that nonprofits engage in to influence lawmakers on issues and inform the public, said Diana Aviv, president of Independent Sector, an umbrella group of nonprofits and charitable foundations.

Ms. Aviv said she has had discussions with White House staff members to make them aware of the danger the proposal poses to charities.

She said her group is in the process of informing nonprofits about the new rules and is pushing to generate a big response during the IRS comment period, which ends February 27.

"It is possible that we can change this," she said. "I don't have the feeling at this moment in time that this is all cast in stone."

Other coalitions of nonprofits are also swinging into action.

The proposed regulations are "terrible," according to Abby Levine, legal director at the Alliance for Justice, a coalition of more than 100 nonprofit and advocacy groups.

She said her group plans to hold an online conference next week to explain its concerns to nonprofits.

### **Clearer Guidelines**

The IRS proposal comes six months after an internal investigation found that the IRS focused heavily on conservative groups in vetting applications for social-welfare status.

Tax experts have said that happened in large part because the laws on political activity are vague. Today, IRS agents determine eligibility on a case-by-case basis by trying to measure how much

of a group's activity is political. The new proposal more clearly defines activities regarded as political.

Among other things, social-welfare groups would face limits on advocating for political candidates, holding voter-registration drives, and publishing voter guides.

Identifying specific candidates or political parties within 30 days of a primary and 60 days of a general election, and holding candidate forums or debates within the same time frame, would also be considered political activity and be subject to limits.

The proposed rules do not clarify the amount of such activity that groups can pursue. Instead, the IRS is calling for public comments on how to revise the current standard, which states that a group cannot "primarily" engage in politics.

### **'Very Worried'**

Nonprofit groups on both the liberal and conservative ends of the spectrum have expressed concern about the proposal.

"This is an effort of the Obama Administration to stifle political speech," said Cleta Mitchell, a lawyer who advises nonprofits and serves as the chairman of the American Conservative Union Foundation. She warned that charities "should be very worried."

"They may be carting off your (c)(4) neighbors in the night, but watch out, you're next," she said.

The Treasury Department should have waited until Congress completes an investigation into the targeting of Tea Party groups, said Rep. Dave Camp, Republican of Michigan, and chairman of the House Ways and Means Committee. Mr. Camp argued that the proposed rules would stifle political speech.

"This smacks of the administration trying to shut down potential critics," he said in a statement.

Common Cause, a liberal group, also said it is worried about the effects the proposal would have on charities.

Charities that sponsor nonpartisan events, like voter drives, would suffer "collateral damage" if the proposed rules were extended beyond social-welfare groups, said Steve Spaulding, staff counsel at the advocacy group.

But he sees the proposed rules as a good first step toward developing a common definition of prohibited political activity that isn't as "vague and laborious" as the current approach, which, he said, "needs to go the way of the dodo bird."

The IRS plans to begin developing final rules after it has heard from the public about its initial draft. Instructions for sending comments are available on the Federal Register's website, at <https://www.federalregister.gov>.