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February 21, 2014

The Honorable John Koskinen
Commissioner
Internal Revenue Service
1111 Constitution Avenue, NW
Washington D.C. 20224-0001

Dear Commissioner Koskinen:

As a Member of Congress, I write in strong opposition to IRS REG-134417-13, a draconian rule that will restrict the First Amendment rights of 501(c)(4) organizations. The IRS has stated that these regulations are intended to clarify the definitions of campaign intervention and social welfare activity. In reality, they will fundamentally alter the permissible activities of 501(c)(4) organizations.

This proposed rule conflates the difference between robust public discourse and electioneering. The purpose of 501(c)(4) organizations is to promote social welfare, furthering the common good and general welfare of the people. Their work benefits communities in a wide range of ways, from historic preservation to supporting community activities and recreation. Current regulations prohibit 501(c)(4)s from being primarily engaged in political activities. They are, however, permitted to engage in informational activities related to an election. Many 501(c)(4)s promote civil engagement by organizing voter registration drives and publishing factual, nonpartisan voter guides for the electorate.

But under the proposed rule, which imposes extreme and rigid restrictions, the permissible activities of 501(c)(4)s will be drastically altered. The rule would prohibit them from publishing voter guides or holding voter registration drives. They would be prohibited from using words such as “oppose,” “vote,” “support,” or “defeat,” and even from mentioning the name of a political party within 60 days of a general election. Any public communication that mentions a political candidate’s name within 60 days of a general election would be considered impermissible political activity, even if the communication is a factual, non partisan voter guide.

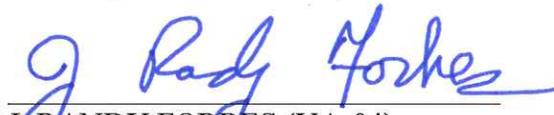
Many of these organizations are engaged in bettering their communities by strengthening families, empowering mothers and fathers, and encouraging individuals to be engaged in their communities. Taking into account the significant ways in which political debates about social policy affect these organizations, the proposed regulations will effectively bar these organizations from participating legitimate, nonpartisan conversations about civic engagement.

Our nation takes the restriction of speech very seriously. As the Supreme Court stated in *Connick v. Meyers*, “speech on public issues occupies the highest rung of the hierarchy of First Amendment values, and is entitled to special protection.” This proposed rule chills speech with no delineated compelling government interest. By defining “candidate-related political activity” so broadly, the proposed regulation confuses public discourse for electioneering—the result of which is the silencing of social welfare organizations. If this rule is finalized, many of these organizations will be entirely removed from the marketplace of ideas because of the restrictions the rule places on their freedom of speech. This silencing cannot withstand the necessary judicial review of strict scrutiny.

Finally, these rules would have a particularly intrusive impact on faith-based 501(c)(4)s. A misunderstanding of the idea of separation of church and state often leads people to falsely conclude that faith-based organizations should be barred from civic engagement, when the spirit of this separation is actually to protect religious institutions from governmental pressure to alter religious belief or practice. In order for faith-based organizations to protect their freedom from government intrusion, they must be permitted to comment and engage on policies, regulations, and legislation that will affect them.

Rather than clarify a gray line in current law, the proposed rule redraws the line several feet in retreat from where it currently stands. Furthermore, the proposed rule unfairly targets only the activities of 501(c)(4)s, and betrays a thinly-veiled attempt to target a specific category of speakers. As a Member of Congress who has taken an oath to uphold and defend the Constitution, I adamantly oppose the content and spirit of IRS REG-134417-13, and I urge you to abandon this proposed rule.

Sincerely,

A handwritten signature in blue ink that reads "J. Randy Forbes". The signature is written in a cursive, flowing style.

J. RANDY FORBES (VA-04)
Member of Congress