



April 28, 2016

The Honorable Peter Roskam  
U.S. House of Representatives  
2246 Rayburn House Office Building  
Washington, DC 20024

Dear Representative Roskam:

On behalf of the Center for Competitive Politics,<sup>1</sup> thank you for introducing H.R. 5053, the “Preventing IRS Abuse and Protecting Free Speech Act,” which would eliminate the IRS requirement that tax-exempt organizations must file their Form 990, Schedule B – listing the private information of groups’ supporters – with the agency.

As you know, several organizations opposed to free speech have claimed that “[e]liminating the existing requirement for disclosure to the IRS of donations to 501(c)(4) ‘social welfare’ groups would open the door wide for secret, unaccountable money from foreign” sources. They assume that the IRS reporting requirement (Form 990, Schedule B) stops groups that want “to launder foreign money into federal elections.” The claim is a shallow and unfounded effort to whip up hysteria.

- The most important safeguard, and a very potent one, against foreign money entering federal elections is the Currency and Foreign Transactions Reporting Act of 1970, better known as the Bank Secrecy Act. Federal regulations require that “Every bank shall file with the Treasury Department ... a report of any suspicious transaction relevant to a possible violation of law or regulation.”<sup>2</sup>
- Tax-exempt organizations may legally accept foreign money, as long as they don’t use the funds to influence federal elections. Therefore, the mere reporting of contributions from a foreign donor on an IRS form has no significance. While very few tax-exempt organizations have significant foreign contributions, if such donations are segregated, then the group can still spend money on federal campaign activities, as long as U.S. citizens make the decisions.

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<sup>1</sup> The Center for Competitive Politics is a nonpartisan, nonprofit 501(c)(3) organization that promotes and protects the First Amendment political rights of speech, assembly, and petition. It was founded in 2005 by Bradley A. Smith, a former Chairman of the Federal Election Commission. In addition to scholarly and educational work, the Center is actively involved in targeted litigation against unconstitutional laws at both the state and federal levels.

<sup>2</sup> 31 C.F.R. 1020.320 (Reports by banks of suspicious transactions).

- If foreigners are going to launder money into federal elections, they are not going to use a foreign address on a tax-exempt's return. Even assuming the IRS received such information about donations on a tax form, unless the amount of foreign contributions exceeds the amount spent by the group from its current and accumulated income for non-political activities, the IRS can't assume that any of the foreign gifts were spent to influence elections.
- In America, to which natives of every other country in the world have moved, and in this "global" age, that a donor has a foreign-sounding name or a foreign address is itself not proof that the donor is not an American citizen. Conversely, donors with "Anglo" or any other ethnic name may be citizens of the U.K., other Commonwealth nations, or anywhere else in the world.
- The IRS has no authority or responsibility for enforcing campaign finance laws. Additionally, except in very limited circumstances in which there is already other evidence of a criminal act, the tax privacy laws prevent the IRS from sharing the donor information in Schedule B with the two agencies that do enforce campaign finance laws, the Federal Election Commission and the Department of Justice.

Many of the groups that signed the letter in question previously pressured the Internal Revenue Service to investigate certain tax-exempt organizations, and as a result they helped create the climate for the IRS targeting scandal, which caused enormous harm both to these groups and to the reputation of the IRS.

The collection of trillions of dollars in taxes each year is based on what the IRS calls the self-assessment feature of the tax laws, where citizens and businesses calculate and pay their taxes. If the agency develops a reputation as a partisan arm of the party in power, that could lead to more citizens cheating on their taxes, with potentially disastrous implications for the budget deficit. If the level of compliance with just the income tax laws alone were to drop just one percentage point due to a decline in the Service's reputation for fairness, that could cost the government over \$170 billion in tax collections over a 10-year period. This measure will help restore confidence in the IRS and protect free speech and associational rights.

Sincerely,

A handwritten signature in blue ink, appearing to read 'D. Keating', written in a cursive style.

David Keating  
President