

House Ways and Means Committee Issues Request for Information Regarding Political Activities of Tax-Exempt Organizations

On August 14, 2023, the Committee on Ways and Means of the United States House of Representatives (the “[Committee](#)”) issued an [open letter](#) (the “[RFI](#)”) entitled “Request for Information: Understanding and Examining the Political Activities of Tax-Exempt Organizations under Section 501 of the Internal Revenue Code.” The Committee seeks information regarding the political activities of 501(c)(3) and 501(c)(4) organizations, including information regarding support for advocacy activities by foreign donors.

The Supreme Court has long recognized that Congress has the power to make “inquiries concerning the administration of existing laws as well as proposed or possibly needed statutes.” *Watkins v. United States*, 354 U.S. 178, 187 (1957). A request for information serves as a fact-finding tool used by Congressional committees to gather information regarding current statutes, regulations, and policies. However, a Congressional committee’s request for information does not necessarily mean that the committee is conducting a full investigation. Whether or not a committee is undertaking a full investigation, responses to requests for information can be become publicly available, either through a Congressional committee’s website or through a report issued by that committee.

The RFI issued by the Committee on August 14 falls under the Committee’s jurisdiction over tax policies concerning tax-exempt foundations and charitable trusts. See Rule X(1)(t)(8) and Rule X(2)(c) of the House of Representatives. According to the Committee, the RFI was issued to address concerns from recent public reports regarding: (i) 501(c)(3) and 501(c)(4) organizations’ compliance with federal tax statutes and regulations that prohibit them from engaging in political campaign activities; (ii) “significant amounts of foreign money . . . flowing through 501(c)(3) and 501(c)(4) organizations to influence elections”; and (iii) the alleged use of such donations to support personal expenses, rather than the charitable purposes of 501(c)(3) and 501(c)(4) organizations. RFI at 1-2. The Committee also stated that the issuance of the RFI was prompted by the February 2020 [report](#) of the Government Accountability Office, which found that the Internal Revenue Service (the “[IRS](#)”) had not clarified what constitutes political campaign intervention and issue advocacy, resulting in confusion among tax-exempt organizations that were striving to be compliant with federal tax law.

The RFI includes a list of ten topics for which the Committee is seeking information from 501(c)(3) and 501(c)(4) organizations and the public. Briefly, the RFI seeks information regarding:

- the IRS’s guidance to 501(c)(3) and 501(c)(4) organizations regarding key definitions for political campaign activities and whether such guidance should be updated;
- details about the source of contributions on the Form 990 filing for 501(c)(3) and 501(c)(4) organizations and the IRS’s review of such information;
- Congress’s policies with respect to foreign funding of 501(c)(3) and 501(c)(4) organizations; and
- activities of 501(c)(3) and 501(c)(4) organizations that may raise concerns about their compliance with the statutory and regulatory prohibitions on political campaign activities.

The RFI invites 501(c)(3) and 501(c)(4) organizations and members of the public to voluntarily submit a response to any or all of the RFI’s questions by September 4, 2023.

We will continue to monitor the RFI and any related actions taken by the Committee and provide updates.

This alert is for general informational purposes only and should not be construed as specific legal advice. If you would like more information about this alert, please contact one of the following attorneys or call your regular Patterson contact.

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