



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

February 25, 2014
(House Rules)

STATEMENT OF ADMINISTRATION POLICY

H.R. 3865 - Temporary Prohibition on IRS from Modifying Tax-Exemption Requirements for Social Welfare Organizations

(Rep. Camp, R-Michigan, and 66 cosponsors)

The Administration strongly opposes H.R. 3865, which would prohibit the Department of the Treasury and the Internal Revenue Service (IRS) from clarifying the standards that organizations must satisfy to qualify for tax-exempt status. Under current law, organizations qualify as tax-exempt organizations “operated exclusively for the promotion of social welfare” if they are primarily engaged in promoting in some way the common good and general welfare of the people. The relevant Treasury and IRS rules have been in place since 1959 and are broadly recognized as unclear. The proposed legislation would prevent any revisions or clarifications to those rules. Thus, it could prevent the IRS from administering the tax code more effectively and from providing greater clarity to organizations seeking tax-exempt status.

H.R. 3865 would prevent Treasury and the IRS from issuing, for one year from the date of enactment, any generally applicable guidance relating to the standards for tax-exemption under section 501(c)(4) as a social welfare organization. In addition, H.R. 3865 would require the IRS to continue to use the standard and definitions in effect on January 1, 2010, to determine whether an organization qualifies for tax-exempt status under section 501(c)(4). The lack of clarity of these standards has resulted in confusion and difficulty administering the Code, as well as delays in the processing of applications for tax-exempt status. The Treasury Inspector General for Tax Administration and the National Taxpayer Advocate, among others, have recommended clarifying the current rules.

Consistent with these recommendations, Treasury and the IRS recently issued a notice of proposed rulemaking (NPRM) that provides guidance on the definition of candidate-related political activity for purposes of determining the “primary activity” of a social welfare organization and solicits public comment on a number of related issues. This NPRM is the first step in a standard rulemaking process intended to clarify the rules and to provide greater certainty for organizations seeking tax-exempt status. The notice and comment process allows for all concerned parties to provide input and comments before any changes to the rules are effected. Treasury and the IRS will carefully consider any and all such comments before issuing any further guidance, and they will follow standard agency rulemaking procedures.

For the reasons described above, the Administration strongly opposes the proposed legislation. If the President were presented with H.R. 3865, his senior advisors would recommend that he veto the bill.

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