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Tax Revolution Institute's First Amendment Alliance

Open Letter to Congress

Dec. 1, 2016

We, the undersigned organizations, call upon Congress to introduce, debate, and pass legislation that codifies the definition of “candidate-related political activity” to mean only express electioneering as was affirmed by the U.S. Supreme Court in *Buckley v. Valeo* 424 U.S. 1, 15 (1976) .

The IRS is pursuing a rule that would put non-profit organizations at risk of losing their tax-exempt status, and severely limit issue discussion and advocacy, by redefining electioneering to include any mention of any candidate for office anywhere in the United States, and any content that could be inferred to support a candidate, within 30 days before a primary or 60 days before a general election. The rule would also sweep in any reference to an “issue or characteristic” used to distinguish a candidate from other candidates.

Congress and the Courts, not the IRS, Department of Treasury, or Executive Branch, have the authority to define the boundary between electioneering and free speech protected by the First Amendment. Congress has established specific rules for non-profit organizations, defining the limits of issue discussion and advocacy for various types of organizations. Furthermore, the U.S. Supreme Court has consistently held that while electioneering is subject to regulation, issue discussion and advocacy are clearly protected by the First Amendment.

The public has the right to engage in discussion of public policy, to hear competing sides of an issue, and to know the factual record of their elected representatives, including those seeking reelection. This is a compelling social welfare interest that is most important during election season when the

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public is paying the closest attention.

The IRS has no constitutional authority to overrule or undermine Congress and the Supreme Court and impose arbitrary new restrictions on speech that unduly harm the public interest.

The current prohibition against the implementation of this “muzzling rule” (REG-134417-13) by the IRS expires on December 9, 2016. As a temporary solution, we call upon Congress to continue prohibiting the IRS from spending tax dollars to silence free speech. A permanent solution will require Congress to work with TRI and the First Amendment Alliance to protect free speech from abuses by the IRS and reaffirm the Supreme Court’s definition of electioneering as “express advocacy” consistent with the language found in Tax Revolution Institute’s [Free Speech Protection Act \(FSPA\)](#).

FIRST AMENDMENT ALLIANCE MEMBER ORGANIZATIONS

Ax the Tax	Common Ground Movement
Bastiat Society	Community Steeple Media LLC
Benjamin Rush Institute	Eagle Forum of CA
Bill of Rights Defense	Eight is Enough Orlando
Committee/Defending Dissent Foundation	Fight for the Future
Blue Republican	FLActivist
Central Florida Tea Party	Florida Tax Payers Union
Christian Party of America	Florida Tea Party
Christian Party of North Carolina	Free the People
Citizens In Charge	Fully Informed Jury Association of Florida
Citizens In Charge Foundation	Granite Institute
Coffee Party USA	

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HerRights.org
Idaho Freedom Action
Idaho Freedom Foundation
Idaho Second Amendment Alliance
Ikkthus
Legal Immigrants for America
Liberate Ohio
Libertarian Institute
Libertarian Party of Broward County
Libertarian Party of Jefferson Parish
Libertarian Party of Louisiana
Liberty Guard
Liberty Initiative Fund
Liberty Justice Center
Move to Amend
Mr. Ed's Circle of Trust Inc
Muslims For Liberty
National Association of Parents
National Organization of Libertarian
Women
New Jersey Libertarian Party
Our America Initiative
Parents Teachers and Advocates
Peachtree NORML

Pennsylvania Commercial Action Network
People Against the NDAA
Popular Resistance
Prairie Fire Patriots
Put Growth First
Republican Liberty Caucus
Restore the Fourth
Rio Grande Foundation
RIPAC
Ronald Reagan Republican Assemblies of
Florida
SoCal Tax Revolt Coalition Inc
Susquehanna Valley Libertarian Party
Tampa Historical Society
Taxpayer Education Foundation
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