

United States Senate
WASHINGTON, DC 20510

July 11, 2019

The Honorable Charles P. Rettig
Commissioner
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, DC 20224

Dear Commissioner Rettig:

In July of 2018, the administration terminated the long-standing requirement that certain 501(c) tax-exempt organizations, including dark money groups, disclose the identities of their large donors to the IRS. Tax-exempt organizations engaging in political activities will no longer be required to disclose the names of individual donors to the IRS, no matter how much money those donors give.

As you noted in your testimony before the Senate Finance Committee on April 10, 2019, when a change in reporting or rules impacting the IRS is contemplated, it is common practice at the IRS for the majority of the divisions within IRS to be “aware of what’s happening and have the ability to comment.” However, as your staff conveyed later via email, with respect to this specific circumstance, the “IRS Criminal Investigation [CI] was not consulted prior to the decision to rescind the donor list filing requirement for 501c(4)s [*sic*].”

Marv Friedlander, a former IRS official with 40 years’ experience at the IRS, including its exempt-organization division noted to the Washington Post at the time of the 2018 announcement that “[t]he ability to begin by looking at large donations – whether tax deductible or not – was a useful tool in pursuing the possibility of corruption.”^[1] The Washington Post article further reported that “Roger Colinvaux, nonprofit tax law expert at the Catholic University of America, said the new rule ‘could be characterized as reinforcing the dark money loophole by taking donor information completely off the public record.’ The fact that the IRS had this information in the past ‘might have dissuaded’ potential foreign actors.”

The ability to follow the money across seemingly unrelated entities can be a critical tool for investigators, especially where transactions may be layered or obscured through multiple and disparate organizations. While organizations will still be required to retain the donor information, they will no longer be required to routinely submit it to the IRS. Revoking the disclosure

^[1] https://www.washingtonpost.com/politics/dark-money-groups-dont-need-to-disclose-donors-to-irs-treasury-says/2018/07/17/38f5d8aa-89d0-11e8-a345-a1bf7847b375_story.html?utm_term=.4ca34bfcf2aa

requirement to the IRS could make it much more difficult for authorities to discover fraudulent activity and track such activity across entities. The change in this disclosure requirement seems to limit the tools available to investigators attempting to uncover illegal activity which can span from tax fraud, to illegal political contributions from foreign entities, to terrorist financing.

You have a duty to fairly administer and faithfully execute the law. A core function of the IRS is to investigate potential criminal violations of the Tax Code and related financial crimes. In fact, the IRS is the only entity that can do so. Accordingly, and in accordance with IRS practice, it would follow that IRS CI would have been consulted and apprised of this consequential change in disclosure requirements prior to its imposition. However, such a consultation did not take place.

We request you provide responses to the following questions:

- (1) If IRS identifies illegal political contributions from foreign entities to a tax exempt entity, how will CI investigate and determine whether this is a singular incident or widespread? That is, will CI have to ask for every 501(c)(4) entity in the country to disclose their donor list to conduct a thorough investigation?
- (2) How will IRS CI be able to maintain confidentiality in an investigation if it must now request a list of donors from dark money 501(c)(4) organization? For example, if CI is tipped off to illegal activity by a whistleblower, how will they maintain that whistleblower's confidentiality under this new regime, when they must request documentation from an entity under investigation?
- (3) As your staff indicated to our staffs, IRS CI was not consulted prior to the decision to rescind the donor list filing requirement for 501(c)(4)s and other organizations. From where did this disclosure policy change originate?
- (4) Was this change in disclosure policy directed or requested by Treasury?
- (5) Was this change in disclosure policy discussed or requested by any non-governmental entity?

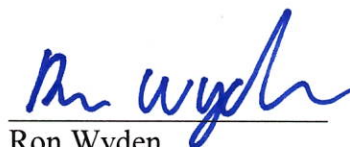
We request you respond in writing to our request for information and provide a briefing to cleared staff no later than July 24, 2019.

Thank you for your attention to this matter.

Sincerely,



Robert P. Casey, Jr.
United States Senator



Ron Wyden
United States Senator