Common Cause
Holding Power Accountable

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July 18, 2018

The Honorable Orrin Hatch
Chairman
Committee on Finance
United States Senate
219 Dirksen Senate Office Building
Washington, DC 20510

Dear Mr. Chairman,

We are deeply troubled by the Treasury Department and Internal Revenue Service's announcement Tuesday that it will "no longer require certain tax-exempt organizations to file personally-identifiable information about their donors as part of their annual return."[1] The change in policy—without any public input or announcement that it was under immediate consideration—raises serious questions about its purpose, the impetus behind it, and how it could pave the way for even more secret, unaccountable money to infect our campaigns.

We urge you to convene hearings immediately to shine a light on how the Treasury Department and the IRS made their decision and the consequences that will flow.

The timing of the announcement is disturbing. It came hours after the Justice Department announced criminal charges against a Russian national, Mariia Butina, who allegedly acted on behalf of senior Russian government officials "to penetrate the U.S. national decision-making apparatus to advance the agenda of the Russian Federation."[2] According to reporting, Ms. Butina made connections with the National Rifle Association (N.R.A.) because she viewed it as "the largest sponsor of the elections to the U.S. Congress."[3] It is indeed a major player in campaign spending. The NRA used its "Institute for Legislative Action" [ILA]—a 501(c)(4) social welfare organization—to do most of its election-related spending in the 2016 cycle, as a recent report by Common Cause explained.[4] "About $34 million of the $54 million that the NRA reported to the Federal Election Commission in the 2016 cycle–more than 60% of its total–came through the ILA," according to Common Cause's analysis of the Center for Responsive Politics' data.[5]

Americans have a right to know who is trying to influence their votes and their views. In the wake of the Supreme Court's decision in *Citizens United*, campaign spenders have pumped at least $800 million into our federal elections from undisclosed sources.[6] Secret money is also a rapidly growing problem in state and local elections around the nation.

The bulk of secret money flows through social welfare organizations organized under Section 501(c)(4) of the tax code, as well as other nonprofit organizations, because they do not disclose their donors to the public.[7] Political operatives on both the right and left have abused existing regulations and under-enforcement of the law to set up electioneering groups that masquerade improperly as social welfare nonprofits and keep campaign spenders anonymous.[8] These entities may be particularly attractive vehicles for foreign spenders to inject campaign money into our elections. As the multiple investigations of foreign interference in the 2016 campaign have laid bare, money and things of value from foreign sources–illegal under existing campaign finance law–may have flowed into the 2016 election.[9]

With the Treasury Department and IRS' change in policy, nonprofit filers will no longer be required to report the names and addresses of their contributors on Schedule B of their 990 tax returns. Even though this information was not public, it was easily accessible to those who have the duty of upholding our tax laws. The names and addresses of contributors to nonprofit organizations may be material to protecting our tax laws from abuses like money laundering and secret campaign spending. The new policy will make it more difficult for government entities to enforce the law. It will provide yet another shroud of secrecy over campaign-related spending. It will put up unnecessary barriers to the fair enforcement of our tax laws against those who would abuse them.

Because of the profound consequences of this decision, we urge you to convene the hearings immediately. Thank you for your prompt attention to this matter.

Sincerely,

Karen Hobert Flynn
President
Common Cause

cc: The Honorable Ron Wyden, Ranking Member, United States Senate Committee on Finance

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[1] Press Release, Department of Treasury, "Treasury Department and IRS Announce Significant Reform to Protect Personal Donor Information to Certain Tax-Exempt Organizations," July 16, 2018, https://home.treasury.gov/news/press-releases/sm426.

[2] Affidavit in Support of an Application for a Criminal Complaint, In the Matter of an Application for Criminal Complaint for Mariia Butina, Also Known As Maria Butina, July 14, 2018, at 4, https://www.justice.gov/opa/press-release/file/1080766/download.

[3] *Id.* at 6; Matt Apuzzo et al., "Mariia Butina, Who Sought 'Back Channel' Meeting for Trump and Putin, Is Charged as Russian Agent," N.Y. Times, July 16, 2018, https://www.nytimes.com/2018/07/16/us/politics/trump-russia-indictment.html.

[4] Common Cause, Powershift, March 2018, at 6, https://takingonthenra.org/wp-content/uploads/sites/8/2018/03/PowerShiftReportv3.pdf.

[5] *Id.*

[6] Center for Responsive Politics, "Outside Spending by Nondisclosing Groups, Cycle Totals, Excluding Party Committees," July 17, 2018, https://www.opensecrets.org/outsidespending/disclosure.php?range=tot.

[7] Center for Responsive Politics, Total by Type of Spender, 2016, July 17, 2018, https://www.opensecrets.org/outsidespending/fes_summ.php?cycle=2016.

[8] Testimony of Stephen Spaulding to the United States Senate Committee on the Judiciary, Subcommittee on Oversight, Agency Action, Federal Rights and Federal Courts, July 29, 2015, https://www.commoncause.org/wp-content/uploads/legacy/policy-and-litigation/testimony/testimony-before-senate-judiciary-irs-enforcement.pdf.

[9] Shane Harris, "Russian Officials Overheard Discussing Trump Associates Before Campaign Began," Wall Street Journal, July 12, 2017, https://www.wsj.com/articles/russian-officials-overheard-discussing-trump-associates-before-campaign-began-1499890354 (noting that "in the spring of 2016, U.S. intelligence officials' suspicions about Russian meddling in the election grew after their counterparts in Europe warned that Russian money might be flowing into the presidential election").