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United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

WASHINGTON, DC 20510-6250

August 31, 2012

The Honorable Douglas H. Shulman
Commissioner
Internal Revenue Service
10th Street and Pennsylvania Avenue, NW
Washington, D.C. 20004

Dear Commissioner Shulman:

Thank you for the August 24, 2012 response by Steven T. Miller, Deputy Commissioner for Services and Enforcement, to my July 27, 2012 letter.

I find it unacceptable that the IRS appears to be passively standing by while organizations that hold themselves out to be “social welfare” organizations clearly ignore the tax code with no apparent consequences.

Frankly, the response that “long standing Treasury Regulations have interpreted ‘exclusively’” as used in section 501(c)(4) to mean “primarily” and the argument that “section 501(c)(4) does not contain a specific rule or limitation on political campaign intervention by social welfare organizations” are not persuasive. The word “exclusively” as written in the statute is clear and speaks for itself. Its clarity is not diminished because the section does not mimic words in another section, which words are also clear.

As a follow-up to your letter, I would like to know the following:

1. If the IRS determines that an organization that has been given 501(c)(4) status has not engaged primarily in social welfare activities, but instead was primarily engaged in activity within the scope of section 527, what are the consequences for the organization? What are the consequences for such an organization having not filed timely Forms 8871 and 8872? Must they file such forms after the fact? What taxes would be due? Will contributions that already have been made to that organization be taxable to that organization?

2. How many 501(c)(4) organizations which appear to be primarily engaged in political activity have been notified by the IRA within the last 6 months that they may be in violation of the law?

It is urgent that I receive your answers promptly, and no later than September 10, please.

Sincerely,

A handwritten signature in black ink that reads "Carl Levin". The signature is written in a cursive, flowing style.

Carl Levin
Chairman
Permanent Subcommittee on Investigations

cc: Dr. Tom Coburn
Mr. Steven T. Miller