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Ways and Means Holds Nonprofit Hearing

During the February 10 House Ways and Means Committee hearing on “Foreign Influence in American Non-profits: Unmasking Threats from Beijing and Beyond,” Republicans focused on how to prevent foreign groups from interfering in US politics. Democrats, while acknowledging concerns about such foreign interference, largely steered their attention to foreign contributions related to the President. There was bipartisan interest in, and witness recommendations for, redesigning the Form 990 filed by tax-exempt organizations, nonexempt charitable trusts, and certain political organizations.

Foreign involvement in US nonprofits has been of interest to Republicans on the Committee for some time, and last year they called on the IRS to revoke the tax-exempt status of multiple organizations for failing to operate within their stated tax-exempt purpose. “Republicans and Democrats should work together to stop foreign actors from interfering with our politics and public discourse through non-profits...” Chairman Jason Smith (R-MO) said in an opening statement today. “The manipulation and abuse of tax-exempt status by foreign nationals is unacceptable.”

While focusing much of his opening statement toward scrutiny of donations related to the President, Ranking Member Richard Neal (D-MA) did acknowledge, “We need a serious and good-faith conversation about corruption and foreign influence that’s bending politics to benefit the well-connected and costing taxpayers.” He also said IRS workforce reductions have weakened enforcement capabilities.

Witnesses:

- Caitlin Sutherland, Americans for Public Trust, said, “Foreign nationals, foreign charities, and foreign governments are actively exploiting loopholes to funnel their foreign dark money into important American policy fights, institutions, and electoral tools – and they are utilizing the nonprofit sector to do it.”
- Adam Sohn, NCRI and Narravance, advocated for the Deterrent Act, which seeks to strengthen disclosure requirements, raise penalties for noncompliance, and align incentives so that transparency is no longer optional regarding foreign funding in higher education.
- Bruce Dubinsky, Dubinsky Consulting (forensic accountant), said regarding money moving through nonprofits, “not being able to identify the original source of funds or clearly see how those funds are used can result in the system can be exploited in harmful and unlawful ways,” and that Form 990 is not designed as a forensic tool capable of identifying malfeasance.
- Scott Walter, Capital Research Center, said Ways and Means should “consider whether 501(c)(3) ‘charities’ should continue to be allowed to engage in ballot initiative campaigns, given that charities have no limit on their spending, no requirement to disclose their donors, and may receive unlimited funding from foreign nationals and foreign governments.”
- Robert Weissman, Public Citizen, said the Committee is correct to train its sights on foreign influence on American politics, but that the core of the problem is the failure of the Administration to enforce existing rules dealing with foreign influence, and the donor relationships related to the President.



Q&A

During questioning from Chairman Smith about links between 501(c)(3) organizations and certain foreign nations, Walter said there are foreign groups that operate through fake news Websites, think tanks, and supporting political candidates. Chairman Smith asked how common foreign funding and influence are in US nonprofits and how the IRS should combat it. Sutherland there is a shocking amount of foreign money running through the US nonprofit system.

Chairman Smith said Republicans have called on the IRS to crack down on tax-exempt entities and have referred 11 different organizations to the Service for revocation of their tax-exempt status. He asked for recommendations regarding IRS practices. Dubinsky said more info should be gleaned from Form 990 to ferret out questionable behavior earlier in the process, in addition to better reporting on Form 990 generally, including information related to fiscal sponsorship and donor-advised funds.

Rep. Dave Schweikert (R-AZ) further asked about proposals to modernize Form 990. Dubinsky said it needs to be designed in a way that information can be easily used by the IRS for transparency, including questions about fiscal sponsorships and beneficial owners, a sentiment echoed by other witnesses. Chairman Smith said of Schweikert's suggestion that Form 990 be redesigned, "the whole purpose of the hearing is to find solutions to solve the problem."

Rep. Lloyd Smucker (R-PA) asked what basic information could be included on Form 990 that would help the public better understand the workings of US nonprofits, including the role played by foreign organizations. Walter said the information could address who sponsors projects, budgets, the principal officer, dates when sponsorship began, and the presence of any foreign funding. Rep. Don Beyer (D-VA) said of Form 990 reform, "I'd love to be participating in that."

Asked by Rep. Ron Estes (R-KS) about foreign interference in our nonprofit sector, Sohn the US needs a way to identify when narratives from foreign nations are coming into our nonprofit organizations, and we also need an infrastructure to identify risks and decide what to do about them. He quipped that hostile foreign regimes don't need spies anymore and are using our own nonprofits to do their business.

Rep. Judy Chu (D-CA) cited her "End Tax Breaks for Dark Money Act," which would change the tax code provision that allows billionaires to avoid capital gains taxes on appreciated assets donated to dark money organizations. Rep. David Kustoff (R-TN) referenced his H.R. 6800, to terminate the tax-exempt status of terrorist supporting organizations. Dubinsky said the IRS needs to better embrace technology and artificial intelligence (AI).

Rep. Danny Davis (D-IL) raised concerns about weaponizing the IRS. Several Democrats on the Committee cited foreign contributions to the President for Inauguration activities.

Testimony from the hearing is at <https://waysandmeans.house.gov/event/full-committee-hearing-on-foreign-influence-in-american-non-profits-unmasking-threats-from-beijing-and-beyond/>.