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Is the President's Budget Dead on Arrival? Maybe Not

On Feb. 13, budget season officially began with the release of [the president's budget](#), which was immediately heralded as dead on arrival. "If there was ever a year to ignore the president's annual budget proposal, this is it," proclaimed [the National Journal](#) (subscription required). While this may be the fate of the president's tax proposals, many of the program funding levels in his budget have a chance of becoming law.

In his budget for fiscal year (FY) 2013, Obama has proposed an ambitious agenda designed to highlight the differences between himself and his political opponents. At the forefront of this agenda is a slew of taxes on upper-income taxpayers, which are destined to face a very skeptical Congress.

The president's revenue proposals are largely a [resubmission of proposals from previous budgets](#) (48 out of 61 of the president's revenue increases were in previous budget requests). He has again called for reinstating higher brackets on upper-income taxpayers, increasing the tax rate on capital gains and dividends, and restoring the estate tax to 2009 levels. The president

reintroduced a previous proposal to tax large banks to pay for the bank bailout, but he doubled the size of the tax (to \$61 billion) and would target the funds to mortgage relief. All told, the president's budget contains almost \$2 trillion in revenue raising proposals, with \$1.6 trillion coming from upper-income individuals.

Selected Revenue Provisions in President Obama's FY2013 Budget	
<i>In billions, over ten years</i>	
Repeal Upper-Income Tax Cuts <i>(for families earning over \$250,000)</i>	\$442
Tax Dividends as Ordinary Income	\$206
Return Estate Tax to 2009 levels <i>(\$7 million exemption, 35% rate)</i>	\$143
Limit Itemized Deductions to 28% <i>(for families earning over \$250,000)</i>	\$123
Increase Capital Gains Tax <i>(from 15% to 20%)</i>	\$36
Tax Carried Interest as Ordinary Income <i>(close the hedge fund manager loophole)</i>	\$13
Impose a Financial Responsibility Fee on Banks	\$61
Other Provisions	\$963
Total, Gross Revenue Provisions	\$1,987

However, as the progressive tax group [Citizens for Tax Justice](#) has pointed out, these proposals leave \$4.1 trillion in possible tax revenue on the table. The president would leave 78 percent of the Bush tax cuts in place. Restoring the estate tax to the 2009 level would short-circuit the scheduled return of the tax to 2001 levels (losing an estimated \$433 billion in revenue).

Relative to what he could be asking for, the president's tax proposals are quite moderate. They are also very popular among the public. A [majority](#) of Americans, including 54 percent of independent voters, support increasing taxes on capital gains and dividends, which Obama proposes. One poll found that [more than half](#) of Americans are in favor of two other Obama proposals – letting the upper-income Bush tax cuts expire and reducing the value of itemized deductions for the wealthy. And more than [two-thirds](#) of Americans support imposing higher taxes on millionaires, which this budget would most certainly accomplish. However, given the partisan gridlock in Congress, these revenue measures are unlikely to pass.

However, the president's discretionary spending proposals – which comprise \$1.3 trillion of his full FY 2013 \$3.8 trillion request and fund the day-to-day operation of the federal agencies and thousands of programs such as national defense, homeland security, scientific research and development, environmental protection, disaster preparedness, tax collecting, and Wall Street oversight – have received much less criticism. None of the Republican leaders in the House or Senate criticized the president's discretionary plans, instead focusing on the revenue and entitlement sections of the proposed budget.

In the past, with divided governance, the president and Congress usually fought over total discretionary spending levels but left the smaller details in the budget alone. This year, the president is attempting to avoid the fight over budget levels by sticking to the spending caps Congress agreed to in [last summer's debt ceiling deal](#), known as the Budget Control Act (BCA). These caps keep the overall discretionary spending levels about even with what they were in FY 2012, but the president has reprioritized some spending under the caps. Some programs would see moderate increases, and others would see cuts under the proposed budget. (More spending cuts are scheduled for the beginning of 2013, due to the failure of the Super Committee, but the president is proposing to offset these cuts with revenue increases and cuts to discretionary and war spending.)

Discretionary Spending Caps Put in Place by Debt Ceiling Deal Before Super Committee Failure (billions of dollars)						
Fiscal Year	CBO March Adjusted Baseline	Budget Control Act				
		Total Discretionary Cap	Security Cap	Non-security Cap	Amount Cut from Baseline	Percent Cut from Baseline
2012	1,087	1,043	684	359	44	4
2013	1,109	1,047	686	361	62	6
2014	1,134	1,066	N/A	N/A	68	6
2015	1,159	1,086	N/A	N/A	73	6
2016	1,186	1,107	N/A	N/A	79	7
2017	1,218	1,131	N/A	N/A	87	7
2018	1,251	1,156	N/A	N/A	95	8
2019	1,285	1,182	N/A	N/A	103	8
2020	1,319	1,208	N/A	N/A	111	8
2021	1,353	1,234	N/A	N/A	119	9
Total	12,101	11,260	N/A	N/A	841	7

(click to enlarge)

As an example of the trade-offs occurring under the caps on discretionary spending, the president's budget requests an increase of \$16.7 million for food safety activities at the Centers for Disease Control and Prevention for research and monitoring of foodborne disease activities and to help with the implementation of the Food Safety Modernization Act. These investments could "help restore and improve state and local capacity to monitor foodborne illness and respond to outbreaks," according to the agency. However, the National Institute for Occupational Safety and Health (NIOSH), responsible for recommending ways to prevent occupational disease and injury, is scheduled to receive a cut of over \$43 million (15 percent of its FY 2012 budget).

[For more analysis on public protections funding in the president's budget, see our recent report, [Safeguarding the Public's Health and Safety](#).]

The president's discretionary budget requests are more likely to be passed into law than his revenue measures because the overall level of discretionary spending has already been agreed to under the Budget Control Act, and the discretionary budget is less controversial than revenue

measures or defense and entitlement program funding. While some conservative members of Congress are looking to cut spending levels below the Budget Control Act's caps, they will likely be held in check by their leaders. Earlier this week, Senate Minority Leader Mitch McConnell (R-KY) [was quoted as saying](#), "Realistically, the [caps] are the best we're going to be able to pass" this year. Additionally, *The Washington Post* [recently reported](#) that Republican budgeters in the House will use the president's budget as the starting point for the yearly appropriations bills that fund the government. These factors, and the fact that the FY 2012 budget also followed the spending caps, indicate that some of the president's requests could survive the congressional budget process.

Obama Proposes Exempting IRS Enforcement from Budget Caps

One of the main objectives of President Obama's fiscal year (FY) 2013 budget request for the Internal Revenue Service (IRS) is to reduce the "tax gap," the difference between what taxpayers owe each year and what they actually pay. The [president's IRS budget request](#) seeks funding increases for both taxpayer services and enforcement programs. Recognizing that a dollar spent on collecting revenue more than pays for itself, the Obama administration has proposed to exclude some IRS enforcement spending from the budget caps imposed by 2011's debt ceiling deal (known as the [Budget Control Act](#)).

In January, the IRS released its latest [report on the tax gap](#). The report concluded that in 2006, the most recent year for which information is available, Americans underpaid their taxes by \$450 billion – an underpayment that was \$105 billion more than occurred in 2001, the last time the agency reported on the tax gap.

The Obama administration is seeking \$5.7 billion for FY 2013 for the IRS enforcement budget – a \$402 million increase over the estimated \$5.3 billion budget the enforcement division had this current fiscal year (see table below). But this request is still \$17 million less than the agency's inflation-adjusted budget in FY 2010 – which was a high-water mark for the division and a [reversal of the decreasing enforcement budgets](#) enacted under President George W. Bush's administration.

IRS Enforcement Budget										
Program / Project / Activity	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012 Estimate	FY 2013 Request	12-13 Change (\$)	12-13 Change (%)
	5,292	5,122	5,033	5,404	5,719	5,537	5,299	5,702	402	7.6%
Investigations	651	630	624	646	664	650	636	688	52	8.2%
Exam & Collections	4,405	4,328	4,252	4,599	4,884	4,727	4,510	4,847	337	7.5%
Regulatory	236	164	157	159	171	161	153	167	14	8.9%

(click to enlarge)

IRS's enforcement activities fall under discretionary spending and the Budget Control Act's spending caps. However, exemptions to those caps are made "for activities that generate

benefits that exceed programmatic costs.” These exemptions currently exist for programs that help detect and eliminate fraud within Social Security and Medicare.

Because the pursuits of the IRS enforcement division fall under the larger rubric of activities that generate revenues beyond their costs, President Obama is arguing that \$277 million of enforcement program spending in FY 2013 should not count against domestic spending caps. Known as a “program integrity cap adjustment,” the move would mean that IRS enforcement spending would not be competing against other national priorities for funding.

Among the enforcement programs the White House is recommending be increased to raise revenues [are](#):

- An additional \$111 million to fight [offshore tax evasion](#), which the IRS estimates will bring in \$6.40 for every dollar invested by FY 2015
- An increase of \$39 million to improve international businesses’ compliance with the tax code through hiring additional international technical specialists to review business tax returns. The IRS estimates a return on investment of \$8.80 per dollar invested
- An additional \$129 million to implement recent legislative tax changes, including new reporting requirements and certain provisions of the Affordable Care Act (ACA), which the IRS estimates will bring in \$3.50 for every dollar invested
- An increase of \$88 million to implement the “Revenue Protection Strategy,” which allows the IRS to adjust a taxpayer's refund if examiners catch errors. The IRS estimates this initiative will return \$1.90 per dollar invested as soon as new hires reach their full potential in FY 2015
- An additional \$35 million to [continue certifying tax preparers](#), which the IRS estimates will bring in \$2.30 for every dollar invested by FY 2015

The IRS estimates that combined, these funding increases will bring in an additional \$673 billion in FY 2013 alone, and, by FY 2015, an estimated \$1.5 trillion in additional annual revenue.

The administration is also requesting that Congress restore the IRS enforcement funding that [House Republicans stripped out](#) of the continuing resolution that funded the federal government in 2011. President Obama is asking that Congress restore \$127 million in funding for the IRS to audit individual tax returns, which the agency estimates will generate \$662 million, for a return on investment of \$6.30 per dollar invested. The administration is also asking that Congress return \$73 million to IRS's collection coverage efforts, which would restore another \$487 million in annual revenue for a return on investment of \$7.60 for every dollar invested.

Experts [generally agree](#) that for every dollar invested in the IRS enforcement budget, taxpayers receive a \$4-to-\$5 return on investment. Additionally, all of these programs provide a positive revenue effect through deterrence, as potential tax cheats are less likely to try to game the system when the likelihood of an IRS audit rises. The agency estimates the deterrence effects of each of the programs above triples the actual tax revenue collected.

The administration's latest funding requests are part of a long-term plan to improve tax collection and ensure compliance with the existing code. The White House says it will propose "roughly \$350 million in new revenue-producing initiatives above current levels of enforcement and compliance activity" each year through 2017. The administration will also ask Congress to adjust each of the previous year's funding requests for inflation and sustain this funding through 2022. The Office of Management and Budget (OMB) estimates the total cost of starting and sustaining these new initiatives to be roughly \$17 billion over the budget window, but the programs will bring in an additional \$44 billion in revenue over that same period.

However, last year, the House lowered IRS funding and put restrictions on hiring new IRS tax enforcement agents; House Republicans, with the aid of conservative Democrats, are likely to once again try to stymie attempts to increase IRS resources and capacity to enforce the tax code. Without adequate funding, the IRS will lack the array of tools necessary to enforce the tax code fully, much needed revenue will be lost, and honest taxpayers will be denied the equity in the tax code that they expect and deserve.

Trade Secrecy Reaches New High

While trade negotiations have long involved some level of secrecy, the Trans-Pacific Partnership (TPP), a proposed regional free trade agreement between the United States and Asia-Pacific partner countries, involves unprecedented levels of work being done behind closed doors. This agreement could curtail crucial activities of state and local governments and would cover profoundly important public policy issues – access to essential medicines, food security, and natural resource management – that deserve extensive public review and discussion. However, intense efforts are being made to block the public from knowing even the most basic content of the agreement.

Background

The Trans-Pacific Partnership Agreement (TPP), also known as the Trans-Pacific Strategic Economic Partnership Agreement, aims to create an expansive free trade zone between the United States and partner countries in the Asia-Pacific region. Conceived in 2003, the proposed agreement builds on an existing free trade agreement between New Zealand, Chile, Singapore, and Brunei Darussalam. The negotiations now include the United States, Australia, Peru, Vietnam, and Malaysia. Several other countries, including Japan, have already expressed interest in joining. President George W. Bush notified Congress of his intention to participate in the TPP negotiations in 2008, and in November 2009, President Obama pledged that the TPP would result in "high standards worthy of a 21st century trade agreement."

Calls for Transparency

Unfortunately, what we have seen so far is the highest standards of secrecy in a 21st century trade agreement. Portions of the agreement have been leaked (despite draconian punishments for such activity), and the cover page of one chapter shows the text of the agreement contains an

unprecedented Classification Guidance that would prevent the document from being declassified for "four years from entry into force of the TPP agreement or, if no agreement enters into force, four years from the close of the negotiations."

At the Chicago round of negotiations in September 2011, TPP negotiators admitted that they had signed a special pact to keep all documents related to these trade talks secret – despite the fact that the World Trade Organization (WTO) and the recently completed Anti-Counterfeiting Trade Agreement (ACTA) have set precedents by releasing [draft trade negotiation texts](#) before the agreements were finalized. The main outreach efforts for the TPP have been conducted quietly and have focused on companies and industry groups. Reports on the agreement process indicate that 600 corporate representatives will have access and the opportunity to comment on the trade agreement, while only between 12 and 16 labor and environmental representatives will have a chance to make their voices heard.

As a result of the unprecedented secrecy surrounding the content of these agreements, campaigns have been launched across all the Trans-Pacific countries, including the United States, to educate the public about the potential impacts of this agreement and to demand that governments release the working texts of the trade agreement. In addition, campaigns have asked for the release of the Classification Guidance or the Memorandum of Understanding the negotiating countries signed to establish the restrictive classification.

In February and October 2011, U.S. labor, consumer, faith, environmental, and human rights organizations wrote to U.S. Trade Representative Ron Kirk, requesting that the U.S. government implement the administration's transparency pledges and release draft negotiating texts. In the [letters](#), groups asked the United States to create a website with other countries and post all documents related to the negotiations, including contact information for key negotiating personnel.

Congressional leaders have also urged the Obama administration to create mechanisms for broad public participation in the process before negotiations move forward. "I firmly believe that the public has a right to monitor and express informed views of proposals of such magnitude as the TPP," stated [Sen. Bernie Sanders \(I-VT\)](#). He further explained, "Without access to actual texts being discussed, in my view the effective input and informed participation of the public is severely curtailed."

What's at Risk

If approved, this agreement, like prior international trade agreements, would create legally binding obligations on the U.S. government, which could threaten domestic environmental laws, various other rules and regulations, and constrain the actions of state and local governments.

A myriad of organizations have raised concerns over the substance of the Trans-Pacific Partnership, including how it would affect environmental protections, essential public services, and access to affordable medicines. Leaked portions of the agreement indicate that intellectual property proposals being negotiated could severely restrict access to essential medicines for

millions of people in developing countries. Numerous organizations, including [Doctors without Borders](#), have warned that the TPP would make it difficult for countries to ensure access to affordable medicines for their peoples by making it more difficult to bring generic drugs to market. Such provisions could increase the price of medicine globally and endanger millions of people suffering from life-threatening diseases. (For example, generic production of first-generation HIV drugs dropped the annual cost per person from [\\$10,000 in 2000](#) to around \$60 in 2011.)

Sanders has argued that the TPP would threaten the health of vulnerable populations in the U.S., too. He believes the trade agreement could undermine the [U.S. Public Health Service Act](#), which "enables safety-net hospitals and clinics to provide access to low-cost life-saving drugs to millions of low-income and disabled Americans."

Studies have shown that trade agreements have undermined public health protections in a number of countries. For example, [a 2007 Oxfam study](#) found that five years after implementing a U.S.-Jordan trade agreement, medicine prices had risen 20 percent in Jordan, without any corresponding benefit in terms of domestic innovation or access to new products. In a [2009 study](#), the Center for Policy Analysis on Trade and Health concluded that prices for some medicines also rose significantly in Guatemala under provisions in the U.S.-Central America and Dominican Republic (CAFTA-DR) trade agreement.

Public interest organizations argue that investor protections in the TPP could also allow claims that environmental standards in the U. S. and other countries are trade barriers. None of the current environmental provisions have been leaked, but the North American Free Trade Agreement (NAFTA) provides a good example of how environmental safeguards can be put at risk by trade agreements. NAFTA has been used by foreign companies to challenge U.S. environmental laws as "barriers to trade." In 2003, Glamis Gold, a Canadian mining company, used NAFTA provisions to sue the U.S. over California laws protecting the environment and cultural sites sacred to a Native American tribe. Though the United States ultimately won, the case dragged on for six years. As a result of NAFTA, the United States has had to battle corporate lawsuits totaling more than \$1 billion.

Investor rights in trade agreements can be used by foreign corporations to challenge federal, state, and local governments over a myriad of issues, such as natural resource management, food labeling, and safety standards. "Investment provisions tend to be designed to give transnational corporations a win-win," explains Baskut Tuncak, an attorney for Center for International Environmental Law (CIEL). Challenges often either successfully lower protection standards or get multimillion dollar judgments from a state. "Either way," Tuncak concludes, "the public loses big."

Next Steps

The 11th round of the TPP negotiations will occur in Australia from Mar. 1-9. The TPP is expected to be finalized at the end of the year. For the TPP agreement to become U.S. law, Congress must pass legislation implementing the agreement. Trade agreements have typically

been viewed as agreements, rather than as treaties. As such, they have been approved by a majority vote of each chamber rather than by a two-thirds treaty ratification vote in the Senate.

Worker Safety Rule Under Review at OIRA for Over a Year: A Tale of Rulemaking Delay

This year, Feb. 14 signified more than a Valentine's Day celebration for worker safety advocates. Last Tuesday marked the one-year anniversary of the regulatory review of a proposed rule issued by the Occupational Safety and Health Administration (OSHA) that would strengthen standards for protecting workers from crystalline silica, a known human carcinogen that is linked to fatalities and disabling illnesses such as silicosis.

The Office of Information and Regulatory Affairs (OIRA), the office most central to carrying out the White House's regulatory policy, received the [proposed rule](#) on Feb. 14, 2011, but has yet to release it despite a 90-day window for OIRA to review rules. This excessive delay, along with a number of closed-door meetings with industry groups, sparked an outcry from 300 occupational health experts, public safety advocates, and labor officials, who sent the White House a [letter](#) on Jan. 25 urging President Obama to release the rule for public comment.

[According to the National Institute for Occupational Safety and Health \(NIOSH\)](#), which is part of the Centers for Disease Control and Prevention, at least 1.7 million U.S. workers inhale crystalline silica dust during construction, sandblasting, mining, and other work-related activities. [NIOSH data](#) shows that about 200 workers die each year from silicosis, and researchers [estimate](#) that 3,600-7,300 new silicosis cases occur annually. The current OSHA standard for crystalline silica exposure is based on a formula proposed in 1968, and the standard for construction and shipyards is based on technologies [considered obsolete](#).

Both worker safety groups and industry have recognized the need for a new comprehensive standard for crystalline silica, and after pursuing a number of non-regulatory approaches (including issuing guidance on silica control and initiating a [silicosis Special Emphasis Program](#)), OSHA began the process to regulate silica. More than 14 years ago, OSHA initiated the silica rulemaking, and it has been over eight years since a small business panel completed a review of the draft silica rule, as required under the Small Business Regulatory Enforcement Fairness Act (SBREFA). OSHA has spent the remaining years collecting and analyzing the scientific data and preparing the regulatory documents associated with the rulemaking.

This is not the first time the rulemaking process has interned a public health or safety standard by subjecting it to lengthy delay or special interest influence. A [study](#) released in November by the Center for Progressive Reform (CPR) charged that the OIRA review process is tilted in favor of industry interests and concluded that "OIRA routinely misses deadlines, stalling public health and safety protections." OMB Watch's [assessment](#) of all OIRA reviews conducted during the Obama administration found the time taken to review rules increased over the first three years of the administration. The average review time for rules increased by almost 20 days between 2009 and 2012, with the average review time in 2011 falling just shy of the 61-day average

review time during the last year of the George W. Bush administration. Of the 161 rules currently under review, 52 have exceeded the 90-day deadline.

Another example of an important public protection that is currently past due is EPA's proposed Chemicals of Concern List rule, which would identify chemicals that may present unreasonable human health risks. The rule would have important health and safety benefits and is not economically significant, yet it has been stalled at OIRA since May 2010.

The silica rule delay is most troubling because it appears to be motivated by something more than the necessity to evaluate complex technical materials. In their letter to the president, proponents of the rule wrote that "OMB staff has hosted at least nine private meetings with individuals about the proposed OSHA action, most of whom represent companies with a direct financial interest in the matter." They continued, "These closed door meetings with special interests are wholly inconsistent with [the administration's] promise of openness and public participation."

Similar complaints were lodged against OIRA for pulling the U.S. Environmental Protection Agency's (EPA) ozone rule, and the CPR report revealed industry dominance in OIRA meetings with outside parties, finding that industry lobbyists were the lone participants in 73 percent of the meetings conducted between 2001 and 2011.

The fairest way forward is to allow the rulemaking process to continue with the transparency and efficiency called for by industry and public health advocates alike. As the Jan. 25 advocates' letter to the White House concluded, "The OSHA proposed rule on crystalline silica needs to be issued so that the public, workers, unions, public health experts and employers have the full opportunity to participate in the development of this important worker protection measure."

Cutting to the Heart of Nonprofits' Political Activities

A leak of documents allegedly produced by the Heartland Institute, a libertarian think tank organized as a 501(c)(3) institution, is just the latest contribution to the controversy surrounding politically active nonprofit organizations as the 2012 elections approach.

The Heartland Institute [bills itself](#) as a "national nonprofit research organization dedicated to finding and promoting ideas that empower people." Some of the leaked documents – which [include](#) a fundraising plan, a budget, and materials for a February 2012 board meeting – suggest that its actual work may be more than just research and idea promotion.

On Feb. 20, Heartland released a [statement](#) acknowledging that most of the leaked the documents were genuine, while alleging that a project strategy memo was a fake.

The fundraising plan notes that Heartland, as part of "Operation Angry Badger," has been "following the Wisconsin debate [over legislation stripping public employee unions of collective bargaining rights] closely," and then goes on to note that:

The recall elections of 2012 amount to a referendum on collective bargaining reform at the state level, making them of *national* interest. Successful recalls would be a major setback to the national effort to rein in public sector compensation and union power. Heartland is the largest and most influential national free-market think tank in the Midwest, so we are in the right place and with the right resources to help defend and secure Wisconsin's recent gains.

Heartland says it is "contemplating five projects" as part of Operation Angry Badger, including "recruit[ing] and promot[ing] superintendents who support Act 10 [the law that stripped collective bargaining rights from public employees]." In Wisconsin, the state Superintendent of Public Instruction is a nonpartisan official who is [elected every four years](#), while local superintendents are [appointed by local, elected school boards](#).

The fundraising plan also notes that, so far, the organization has not "yet attempted to raise funds from businesses with a financial interest in fracking" to support its work advocating for hydraulic fracturing. However, Heartland plans in 2012 "to correct that oversight and approach dozens of companies and trade associations that are actively seeking allies in this battle."

The organization denounced the release of the documents, and while the security breach and the damage to Heartland's credibility and reputation are likely driving most of its outrage, the group's leadership may also be concerned about its status as a 501(c)(3) organization.

The laws regarding 501(c)(3) organizations' political activities are complicated, but the Internal Revenue Service (IRS) has [clearly stated](#) that (among other things), a 501(c)(3) "may not attempt to influence legislation as a substantial part of its activities and it may not participate in any campaign activity for or against political candidates" and "must not be organized or operated for the benefit of private interests." Very little else about the rules defining and regulating nonprofits' political activity is clear – in fact, the basic "facts and circumstances" standard is widely acknowledged to be vague and difficult to apply consistently.

At least one [whistleblower](#) has asked the IRS to examine whether Heartland's activities violate the restrictions imposed by its status as a 501(c)(3) charity. If questions about Heartland's or other 501(c)(3)'s political activities during the 2012 election become a subject of public debate, they will stand alongside questions about the proper roles of 501(c)(4), 527, and ["superPACs"](#) (independent expenditure-only political action committees). Concerns about whether and how nonprofits are engaging in political activity are nothing new to our political system. However, the onslaught of political spending unleashed by the *Citizens United* decision may have made them more urgent.

As the election approaches, the IRS has not made its position on nonprofits' political activity clear. To the contrary, it has been sending conflicting signals for the past several months. The Political Activities Compliance Initiative, run through the Exempt Organizations office, was quietly wound down. The Services and Enforcement division announced that it would investigate whether major donors to 501(c)(4)s should have been paying gift taxes – then [dropped](#) the effort. Senators from both sides of the aisle have gotten involved, with [dueling](#)

[letters either urging](#) the IRS to initiate investigations into nonprofits' political activities or [alleging](#) that the investigations could show political bias.

With a hotly-contested election looming, it is difficult to imagine that the IRS will wade into the fray by clearing up the rules or attempting to flag anything other than a blatant violation of the rules. It is clear, however, that the calls for change are louder, more multi-layered, and coming from more corners of the political arena. Perhaps soon, even the Heartland Institute will acknowledge that additional clarity from the IRS about which activities in what amounts are permitted under the law will help all nonprofits better understand their rights to speak and act on important public policy issues.

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