



KENNETH J. POKALSKY
Vice President, Government Affairs

February 27, 2014

Via Federal eRulemaking Portal

John A. Koskinen
Commissioner of Internal Revenue
CC:PA:LPD:PR (REG-134417-13)
Room 5305
Internal Revenue Service
P.O. Box 7604, Ben Franklin Station
Washington, DC 20044

Re: Comments on IRS NPRM, REG-134417-13

Dear Commissioner Koskinen,

These comments are submitted on behalf of The Business Council of New York State, Inc. The Council is a statewide employer association, representing about 2,400 private sector employers and local and regional employer organizations from across New York.

We are concerned with this proposed rulemaking for two reasons.

First, the Council itself is organized under Section 501(c)(6) of the Internal Revenue Code. And while the proposed rule would directly apply only to (c)(4) organizations, the rulemaking notice asks for input on whether similar provisions should apply to other 501(c) entities, including (c)(6) organizations.

Second, the Council has a separately-incorporated, affiliated organization, New York Jobs Now, Inc., which is organized under Section 501(c)(4). Its purpose is to promote economic growth policies and initiatives, and it engages in non-lobbying issue advocacy efforts. This affiliated organization would be directly affected by this proposed rule.

Generally speaking, our (c)(4) entity has not, and does not intend to, engage in any of the categories of "candidate-related political activity" set forth in the proposed rule-making. Several of the proposed categories of precluded activities seem unnecessarily broad, specifically those related to 30- and 60-day periods prior to primary and general elections, respectively. However, we do not believe this proposed rule will materially affect the activities of our (c)(4).

On the other hand, we strongly oppose the suggestion that these proposed regulations be applied to (c)(6) organizations.

The Business Council is organized as a trade association, with a focus on issue advocacy at the state level. As such, this proposed rule would capture many activities in which the Council routinely engages. Indeed, it would capture activities that go to the very core of our organization's mission.

As example, while we are not organized primarily for the purpose of supporting or opposing candidates or appointees, our advocacy efforts often refers specifically to public officials and candidates. And while it has not occurred recently, we have had legislative sessions that come within the pre-election time periods during which this proposed rule would prohibit candidate-specific communications.

In addition, we routinely issue voters guides as a service to our members, and as an educational tool.

Under the proposed regulation, these types of activities would implicate our tax status.

These are critically important functions of membership associations like ours, and in our view they are clearly consistent with our tax-exempt purpose. The proposed regulation's attempt to say otherwise is inconsistent with statute and long-standing practice and a violation of the Constitution under established judicial precedents.

An organization should not be forced to choose between these legitimate activities and maintaining its tax status, which is precisely what this proposed rule could do.

As such, we urge the IRS to reject any effort to extend this rule-making to Section 501(c)(6) organizations.

Sincerely,

A handwritten signature in black ink, appearing to read "K. J. Pohl". The signature is written in a cursive, flowing style with a long, sweeping tail on the final letter.