

# Congress of the United States

## House of Representatives

COMMITTEE ON OVERSIGHT AND ACCOUNTABILITY

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<https://oversight.house.gov>

February 14, 2024

The Honorable Daniel Werfel  
Commissioner  
Internal Revenue Service  
1111 Constitution Ave. NW  
Washington, D.C. 20224

Dear Commissioner Werfel,

The Committee on Oversight and Accountability is investigating substantial political campaigning and lobbying by 501(c)(3) tax exempt entities, and the ability of the Internal Revenue Service (IRS) to identify and enforce related violations of tax laws. Despite restrictions on substantial political campaign activities and lobbying by 501(c)(3) organizations, entities like One Fair Wage, Inc. appear to be primarily engaged in a host of lobbying practices diverting from a charitable mission. The Committee requests a staff-level briefing, as well as documents and communications to inform its investigation of this matter.

Tax exempt status under Section 501(c)(3) of the Internal Revenue Code (IRC) and implementing regulations requires that exempted entities are “operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational” and related purposes.<sup>1</sup> These entities are specifically prohibited from political campaigning for or against candidates for public office, and no substantial part of their activities can be for the purpose of influencing legislation.<sup>2</sup> Entities are deemed to not be organized for a charitable purpose if they devote a substantial part of their activities to lobbying efforts.<sup>3</sup>

Despite these limitations on political and lobbying activities by 501(c)(3) designated entities, activist advocacy organizations, such as One Fair Wage, Inc., seem to view their charitable work as indistinguishable from their substantial lobbying pursuits. According to a statement of work on their website, the organization is “currently leading the 25 by 250 Campaign, through which One Fair Wage is moving legislation and ballot measures in 25 states...”.<sup>4</sup> In civil litigation initiated by One Fair Wage, Inc., last year, the entity represented on multiple occasions that a significant activity of the organization, if not its primary purpose,

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<sup>1</sup> 26 U.S.C. § 501(c)(3); *see also* 26 C.F.R. 1.501(c)(3)-1(d)(1)(i).

<sup>2</sup> *Id.*; *see also* 26 C.F.R. 1.501(c)(3)-1(b)(3).

<sup>3</sup> *Id.*; *see also* *Haswell v. U.S.*, 205 Ct. Cl. 421, 500 F.2d 1133 (1974).

<sup>4</sup> One Fair Wage, *Our Work*, available at [www.onefairwage.org/our-work](http://www.onefairwage.org/our-work) (last accessed January 31, 2024).

includes lobbying. Its amended complaint notes that “...instead of spending its time *lobbying* or advocating, One Fair Wage has been forced to spend its time addressing complaints...,” that “One Fair Wage’s Research Director... spends roughly one-fourth of her time working for One Fair Wage dealing with such complaints...instead of directing her efforts toward *lobbying*,” and that “[m]any other One Fair Wage employees and consultants have spent at least a portion of their work time dealing with such complaints...instead of organizing and hosting *lobbying* or advocacy events, costing One Fair Wage significant financial resources and time, focus, and energy it would not have expended otherwise and which it can no longer spend on pursuing its core mission of *lobbying* and advocating...”<sup>5</sup> The court decision dismissing their lawsuit notes that they described their “organizational purpose” as “*lobbying* against subminimum cash wage policies and unmitigated tipping policies.”<sup>6</sup>

Reports by the U.S. Treasury Inspector General for Tax Administration (TIGTA) note specific problems with the IRS’s capabilities to enforce regulations for charities and other tax-exempt organizations, including: a lack of responsiveness by the IRS to tax-exempt organizations<sup>7</sup> and internal IRS resource allocation plans covering tax-exempt enforcement.<sup>8</sup> A Committee investigation previously found that the IRS systematically targeted perceived conservative tax-exempt applicants for additional scrutiny<sup>9</sup> instead of neutrally enforcing regulations for tax-exempt charities and organizations. We are concerned that IRS may now be engaged in withholding legitimate enforcement efforts as they pertain to activist groups hiding behind their non-profit statuses.

To assist the Committee in conducting oversight over IRS enforcement actions related to 501(c)(3) tax exempt entities, please provide the following documents and information no later than February 28, 2024:

1. All documents related to internal IRS guidance and training for IRS officials, employees, and contractors related to enforcement activities connected to 501(c)(3) tax exempt entities;

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<sup>5</sup> First Amended Complaint, *One Fair Wage, Inc. v. Darden Restaurants, Inc.*, No. 21-cv-02695-EMC (N.D. Cal. May 4, 2023) (emphasis added).

<sup>6</sup> Order Granting Defendant’s Motion to Dismiss, *One Fair Wage, Inc. v. Darden Restaurants, Inc.*, No. 21-cv-02695-EMC (N.D. Cal. Aug. 17, 2023) (emphasis added).

<sup>7</sup> TREASURY INSPECTOR GENERAL FOR TAX ADMIN, 2021-100-003, THOUSANDS OF TAX EXEMPT AND GOVT. ENTITIES TAXPAYERS MAY NOT HAVE RECEIVED SATISFACTORY RESPONSES TO THEIR QUESTIONS, 4-5 (October 3, 2023).

<sup>8</sup> TREASURY INSPECTOR GENERAL FOR TAX ADMIN, 2023-30-008, OPPORTUNITIES EXIST FOR THE IRS TO DEVELOP A MORE COORDINATED APPROACH TO EXAMINATION WORKPLAN DEVELOPMENT AND RESOURCE ALLOCATION, 7 (February 8, 2023).

<sup>9</sup> STAFF REPORT OF H. COMM. ON OVERSIGHT & GOVERNMENT REFORM, 113<sup>TH</sup> CONG., THE INTERNAL REVENUE SERVICE’S TARGETING OF CONSERVATIVE TAX-EXEMPT APPLICANTS: REPORT OF FINDINGS FOR THE 113<sup>TH</sup> CONGRESS, DEC. 23, 2014.

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2. All documents and communications related to One Fair Wage, Inc., EIN 85-0692228 in IRS's custody or control.

Additionally, we request a staff-level briefing on IRS enforcement and oversight procedures related to tax-exempt organizations with attention to concerns about One Fair Wage, Inc. lobbying in contravention of IRS tax-exempt regulations.

To schedule the briefing, arrange for the delivery of responsive documents or ask any related follow-up questions, please contact Committee on Oversight and Accountability Majority Staff at (202) 225-5074. Attached are instructions for producing the documents and information to the Committee. The Committee on Oversight and Accountability is the principal oversight committee of the U.S. House of Representatives and has broad authority to investigate "any matter" at "any time" under House Rule X. Thank you for your attention to this important matter.

Sincerely,

A handwritten signature in black ink that reads "James Comer". The signature is written in a cursive style and is positioned above a horizontal line.

James Comer

Chairman

Committee on Oversight and Accountability

cc: The Honorable Jamie Raskin, Ranking Member  
Committee on Oversight and Accountability