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United States Senate

COMMITTEE ON FINANCE

WASHINGTON, DC 20510-6200

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June 10, 2015

The Honorable Jacob Lew
Secretary
Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20229

Dear Secretary Lew,

Earlier this year, we wrote you separate letters requesting documents related to the November 2013 proposed rulemaking regarding tax-exempt organizations issued by the Department of the Treasury and the Internal Revenue Service. We sent these requests as chairmen of the Senate Finance Committee and House Ways and Means Committee, each of which has jurisdiction over federal revenue measures and the responsibility to conduct oversight of the administration of the Internal Revenue Code. We sought this information to better understand the Administration's efforts to upend decades-old rules governing the political activity of tax exempt organizations.

Our requests sought "all documents and communications sent by, received by, or copied to any employee of the Department of the Treasury" between January 1, 2009 and through the date of the proposed rulemaking, November 29, 2013. The Treasury Department has already collected the responsive material as part of an unrelated Freedom of Information Act request, entirely eliminating the burden of collecting responsive documents. Furthermore, the documents sought relate to a proposed rulemaking that has since been put aside,¹ although we understand the Administration is working on a new version to be released this year.

In response to our requests, the Department declined to send the requested documents and instead offered to share only those documents that it already had shared with FOIA litigants. Many of these documents, we understand, are completely redacted. The offer to treat Congress's oversight inquiries like FOIA requests inappropriately conflates the role of the FOIA statute—which gives citizens the opportunity to monitor governmental functions and obtain information, with some restrictions—with Congress's absolute right to understand the basis upon which the Administration executes the law. FOIA does not limit congressional oversight.² The response goes on to refuse to provide documents related to the pending rulemaking, as they "implicate

¹ <http://www.irs.gov/uac/Newsroom/IRS-Update-on-the-Proposed-New-Regulation-on-501%28c%29%284%29-Organizations>

² 5 U.S.C. § 522(d) (The FOIA statute "is not authority to withhold information from Congress."); see *Murphy v. Dep't of Army*, 613 F.2d 1151, 1158 (D.C. Cir. 1979) ("Congress, whether as a body, through committees, or otherwise, must have the widest possible access to executive branch information if it is to perform its manifold responsibilities effectively.").

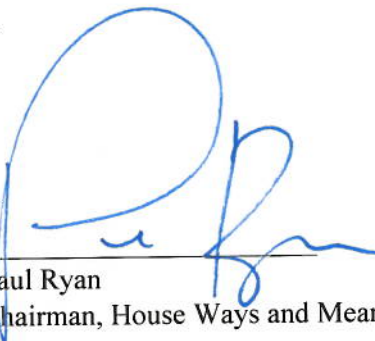
well-established Executive Branch confidentiality interests.” The response merely asserts this limitation without citing any legal authority. Further we would note that our request only covers documents created through the release of the November 29, 2013 rulemaking, and does not seek documents concerning the pending action.

Again, we request the above-referenced documents, in complete and unredacted form. Should you refuse to provide them, our committees will consider initiating compulsory process.

Sincerely,



Orrin G. Hatch
Chairman, Senate Committee on Finance



Paul Ryan
Chairman, House Ways and Means Committee