

March 26, 2015

John Koskinen, Commissioner  
Internal Revenue Service  
1111 Constitution Ave., N.W.  
Washington, D.C. 20224

Dear Commissioner Koskinen,

As I'm sure you are aware, U.S. Sen. Ted Cruz (R-Texas) announced his candidacy for president at Liberty University in Lynchburg, Va., on March 23. Before a crowd of more than 10,000 students, teachers and administrators, Sen. Cruz criticized the Obama administration and outlined his case for why he should hold the highest office in the land.

The announcement itself was not unusual, but the venue was. Liberty University is a tax-exempt organization described in Section 501(c)(3) of the Internal Revenue Code. As such, it is prohibited from endorsing or opposing candidates for public office. Yet it is difficult to view Liberty's choice to allow Sen. Cruz to hold a campaign rally on campus as anything less than an endorsement of his candidacy, notwithstanding the university president's perfunctory disclaimer to the contrary.

Indeed, it appears that Sen. Cruz chose Liberty because it offered him certain advantages, and Liberty was more than happy to work in coordination with the senator to assist his cause. Sen. Cruz wanted potential donors and conservative voters to believe that he has the support of thousands of young people at the largest Christian university in the world. And Liberty helped sell that idea by making attendance at the senator's rally mandatory for students. (In fact, anyone who failed to show up without an approved excuse faced a fine of \$10.)

It would also strain credibility should Liberty try to argue it did not know the purpose behind Sen. Cruz's appearance on campus. Just after midnight on March 23, roughly ten hours before his speech, Sen. Cruz announced on social media that he intended to run for president. This came after weeks of media speculation that he would declare.

This effort on behalf of Sen. Cruz is very much in keeping with Liberty's long history of improper entanglement with partisan politics. In fact, Americans United has previously reported Liberty to the IRS for investigation on three separate occasions, most recently for a 2010 incident in which the university used its student newspaper and other publications to promote a Republican candidate for the Virginia House of Delegates.

As you can see, Liberty University's decision to hold what amounted to a campaign rally for Sen. Cruz is precisely the sort of activity that should warrant an investigation into the school's tax status. But the IRS's ongoing unwillingness to investigate 501(c)(3) organizations that engage in unlawful partisan political activity has had the apparent effect of leading Liberty and other tax-exempt entities to believe they can ignore federal law.

I am aware of the damage the IRS sustained during the supposed Tea Party targeting scandal – although the allegations turned out to be largely baseless – and I understand the need for a temporary moratorium on audits of exempt organizations. But the moratorium has been in place long enough. In the absence of any visible enforcement of the rules against politicking by non-profits, much damage has been done and much confusion has arisen.

Most notably, the Alliance Defending Freedom, a far-right Christian legal organization based in Arizona, has actively encouraged pastors to defy the law by endorsing or opposing candidates from their pulpits. Some of these pastors flagrantly break the rules and even openly thumb their noses at the law by mailing their partisan sermons to the IRS.

The only way to clear up the confusion and stop law-defying organizations is to investigate tax-exempt groups, like Liberty University, that warrant an audit. I am aware that the IRS lost a lawsuit in 2008 against a Minnesota church that was accused of partisan politicking and financial irregularities and that the agency was ordered by a federal judge to change its church audit procedures as a result. Seven years have passed since that lawsuit, yet virtually no progress has been made in this area in the interim. The regulatory process has been completed to change the designation of the official who must initiate audits, and other necessary alterations can be made without difficulty.

Many Americans are concerned over the abuse of tax-exempt status by organizations with partisan political intent. With our nation approaching a

presidential election, the problem of pulpit politicking will only become more acute.

I believe it would be detrimental for our country and the democratic process to go through another election cycle with the “no-politicking” rule unenforced. The more the IRS delays, the more organizations like Liberty University and the churches that follow the advice of the Alliance Defending Freedom conclude that they do not have to abide by our nation’s laws.

I urge you to show them that they are wrong by resolving this matter promptly and beginning strict enforcement of the ban on partisan politicking by tax-exempt organizations.

Sincerely,

A handwritten signature in black ink, appearing to read "Barry W. Lynn", with a long, sweeping horizontal line extending to the right.

Barry W. Lynn  
Executive Director