

## House taxwriters clamp down on foreign contributions to tax-exempt entities, unauthorized disclosures of taxpayer data

The House Ways and Means Committee this week approved, in some cases with bipartisan support, a series of Republican-sponsored bills intended to prevent foreign entities and ultrawealthy US donors from using tax-exempt organizations to exert improper influence in federal elections, as well as a separate measure that would ratchet up the penalties on individuals who are convicted of making unauthorized disclosures of federal tax returns and protected return information.

### Exempt organizations and improper election influence

At a high level, some of the election-related measures approved at the May 15 Ways and Means Committee mark-up would impose new reporting requirements on tax-exempt organizations to make clear the extent to which they receive contributions from foreign donors and the extent to which these organizations provide financial assistance (in the form of grants, for example) to foreign entities. Other bills would impose new restrictions on tax-exempt organizations to prevent foreign donors and wealthy US donors from using them as conduits for impermissible political activity.

**Disclosure of foreign contributions to exempt organizations:** The American Donor Privacy and Foreign Funding Transparency Act (H.R. 8293), sponsored by Ways and Means Oversight Subcommittee Chairman Dave Schweikert, D-Ariz., would require tax-exempt organizations to publicly report on their annual Form 990 the aggregate amount of contributions they receive from foreign nationals during the taxable year and provide a breakdown of those foreign contributions on a country-by-country basis. It also would, with limited exceptions, prohibit federal agencies from collecting or requiring the submission of information on the identities of donors to a tax-exempt organization.

**URL:** <https://gop-waysandmeans.house.gov/wp-content/uploads/2024/05/AINS-to-H.R.-8293.pdf>

The provisions relating to the disclosure of foreign-source contributions would be effective for returns filed for taxable years beginning after the date of enactment. The provisions regarding the collection of donor information would be effective on the date of enactment.

The Joint Committee on Taxation (JCT) staff has estimated that the measure would have a negligible impact on federal revenues over the 10-year budget window covering 2024-2034.

The bill cleared the panel by a 23-16 with no support from Democrats, who argued that prohibiting government agencies from collecting donor information would fuel the proliferation of “dark money” in politics by ensuring that wealthy individuals who make substantial contributions to section 501(c)(4) organizations can remain anonymous.

**Disclosure of grants by exempt organizations to foreign recipients:** The Foreign Grant Reporting Act (H.R. 8290), sponsored by taxwriter Lloyd Smucker, R-Pa., would require section 501(c) organizations that make grants or provide other assistance to foreign entities to report on their annual Form 990 (1) the name and

address of each foreign entity, (2) the aggregate amount of grants or other assistance provided to each entity during the year, and (3) whether the foreign entity is a charity. (Exempt organizations are already required to disclose details of the grants they make to US entities.)

**URL:** <https://gop-waysandmeans.house.gov/wp-content/uploads/2024/05/AINS-to-H.R.-8290.pdf>

The bill, which was approved 38-0, would be effective for returns filed for taxable years beginning after the date of enactment. (JCT 10-year estimate: Negligible revenue impact.)

**Indirect political contributions by foreign donors:** The No Foreign Election Interference Act (H.R. 8314), sponsored by Rep. Nicole Malliotakis, R-N.Y., would amend the Internal Revenue Code to impose penalties on certain tax-exempt organizations that receive contributions from foreign nationals and then pass those contributions along in the form of donations to political action committees or other overtly political causes.

**URL:** <https://gop-waysandmeans.house.gov/wp-content/uploads/2024/05/AINS-to-H.R.-8314.pdf>

Under the proposal, which passed by a margin of 39-1, a “specified tax-exempt organization” that receives a contribution or gift from a foreign national would be banned from making donations to a political committee for eight years. An organization that violates the ban would face a fine totaling 200 percent of the donation amount for each of the first two disqualified donations. An organization that violates the ban for a third time would automatically lose its tax-exempt status.

A “specified tax-exempt organization” is defined as an organization that has (1) gross receipts for the taxable year of \$200,000 or more, or (2) assets of \$500,000 or more (determined as of the close of the taxable year).

The bill would be effective for contributions made on or after January 1, 2025. (JCT 10-year estimate: Gain of less than \$500,000.)

**Funding for election administration:** Another measure, H.R. 8291, sponsored by Rep. Claudia Tenney, R-N.Y., generally would prohibit section 501(c)(3) organizations from providing below-cost services, scholarships, subsidies, or direct, in-kind, or indirect funding to official state or local election agencies.

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The bill was approved by a party-line vote of 23-17. Tenney and the panel’s Republicans contended that the proposal would curb the ability of ultrawealthy US donors to exert influence over the election process by using 501(c)(3) organizations to funnel funds to election agencies in jurisdictions that align with their political views. Democrats countered that it would prevent 501(c)(3) organizations from providing nonpartisan financial support to cash-strapped election agencies in economically disadvantaged jurisdictions.

The bill would be effective for taxable years beginning after December 31, 2024. (JCT 10-year estimate: Gain of less than \$500,000.)

## **Unauthorized disclosure of taxpayer information**

Also at the mark-up, the committee voted 40-1 to approve legislation that would significantly increase the current-law penalties imposed on individuals who make willful and unauthorized disclosures of federal income tax returns and return information.

Under the Taxpayer Data Protection Act (H.R. 8292), sponsored by Ways and Means Committee Chairman Jason Smith, R-Mo., an individual convicted of violating federal prohibitions on tax return disclosure would face a maximum fine of \$250,000 (up from \$5,000 under current law), a maximum prison sentence of 10 years (up from five years under current law), or both. The measure also clarifies that an unauthorized disclosure involving the returns or return information of multiple taxpayers would be treated as a separate violation for each taxpayer whose data was disclosed. The stiffer penalties would be effective for disclosures made after the date of enactment.

**URL:** <https://gop-waysandmeans.house.gov/wp-content/uploads/2024/05/AINS-to-H.R.-8292.pdf>

The legislation was introduced at least partially in response to a data breach at the IRS involving some 70,000 taxpayers that began in 2019 and made national headlines in 2021 when tax return information for several prominent individuals appeared in *The New York Times* and *Pro Publica*. A former IRS contractor subsequently was charged with and pleaded guilty to a single count of unauthorized disclosure and received the current-law maximum fine and prison sentence—an outcome many Ways and Means Committee members have argued was insufficient given the magnitude of the offense.

## **Next steps uncertain**

It is unclear when or if any of the committee-approved bills will be brought to the House floor.

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