

**DESCRIPTION OF H.R. 8314, THE  
“NO FOREIGN ELECTION INTERFERENCE ACT”**

Scheduled for Markup  
by the  
HOUSE COMMITTEE ON WAYS AND MEANS  
on May 15, 2024

Prepared by the Staff  
of the  
JOINT COMMITTEE ON TAXATION



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## INTRODUCTION

The House Committee on Ways and Means has scheduled a committee markup for May 15, 2024, of H.R. 8314, the “No Foreign Election Interference Act.” This document,<sup>1</sup> prepared by the staff of the Joint Committee on Taxation, provides a description of this bill.

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<sup>1</sup> This document may be cited as follows: Joint Committee on Taxation, *Description of H.R. 8314, the “No Foreign Election Interference Act”* (JCX-19-24), May 13, 2024. This document can also be found on the Joint Committee on Taxation website at [www.jct.gov](http://www.jct.gov). All section references in the document are to the Internal Revenue Code of 1986, as amended (the “Code”), unless otherwise stated.

## **A. Penalties with Respect to Contributions to Political Committees from Certain Tax-Exempt Organizations that Accept Contributions from Foreign Nationals**

### **Present Law**

#### **Section 501(c) tax-exempt organizations**

Section 501(c) describes 28 different categories of organizations that generally are exempt from Federal income tax.<sup>2</sup> Different rules apply to political campaign activities (including political campaign contributions) of such organizations depending upon the category of section 501(c) under which an organization is described. The restrictions on an organization's political campaign activities generally become more stringent as the Federal tax benefits potentially available to the organization or to the organization's donors increase.

Section 501(c)(3) provides tax-exempt status to certain nonprofit entities organized and operated exclusively for charitable, religious, educational, or certain other purposes, provided that no part of the net earnings of the organization inures to the benefit of any private shareholder or individual. Organizations described in section 501(c)(3), which generally are referred to as "charities," are classified as either public charities or private foundations.<sup>3</sup> In addition to the tax-exempt status conferred on organizations described in section 501(c)(3), charitable contributions to such organizations are tax-deductible to the donor for Federal income, estate, and gift tax purposes.<sup>4</sup> In addition, section 501(c)(3) organizations are eligible for certain tax-exempt financing benefits.<sup>5</sup>

Among the other types of organizations described in section 501(c) are social welfare organizations (sec. 501(c)(4)), labor organizations (sec. 501(c)(5)), and trade associations or civic leagues (sec. 501(c)(6)). These entities and other tax-exempt organizations that are not

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<sup>2</sup> Sec. 501(c)(1) through (19) and (21) through (29). These "tax-exempt organizations" generally are exempt from Federal income tax on income derived from activities substantially related to their exempt purposes and on their investment income. Such organizations generally are subject to tax (unrelated business income tax, or "UBIT") on any income derived from business activities that are regularly carried on and not substantially related to their exempt purposes. Secs. 511-514.

<sup>3</sup> Sec. 509(a). Private foundations are defined under section 509(a) as all organizations described in section 501(c)(3) other than the organizations granted public charity status by reason of: (1) being a specific type of organization (*i.e.*, churches, educational institutions, hospitals and certain other medical organizations, certain organizations providing assistance to colleges and universities, or a governmental unit); (2) receiving a substantial part of its support from governmental units or direct or indirect contributions from the general public; (3) providing support to another section 501(c)(3) entity that is not a private foundation (*i.e.*, being a "supporting organization"); or (4) being organized and operated exclusively for testing for public safety. In contrast to public charities, private foundations generally are funded from one or a limited number of sources (an individual, family, or corporation) and are subject to restrictions not applicable to public charities. In general, more generous charitable contribution deduction rules apply to gifts to public charities.

<sup>4</sup> See secs. 170, 642(c), 2055(a)(2), 2106(a)(2)(A)(ii), and 2522(a)(2). Organizations described in section 501(c)(3) generally are eligible for reduced postal rates and, depending on the applicable State and local laws, may also be eligible for State and local income, property, and sales tax benefits.

<sup>5</sup> See sec. 145.

described in section 501(c)(3) (*i.e.*, non-charities) generally are not eligible to receive contributions that are deductible as charitable contributions to the donor for Federal income or estate tax purposes, but they may receive contributions that are deductible under section 162 as a business expense.<sup>6</sup> Additionally, these entities generally are not eligible to receive contributions that are deductible as charitable contributions to the donor for Federal gift tax purposes;<sup>7</sup> however, the gift tax does not apply to a transfer to these organizations.<sup>8</sup>

### **Description of Proposal**

Under the proposal, a specified tax-exempt organization that makes a disqualified political committee contribution must pay a penalty equal to twice the amount of the contribution. The proposal further provides that any organization described in section 501(c) that makes more than two disqualified political committee contributions is not exempt from Federal income tax for any taxable year ending on or after the date of the third such contribution.

The term “specified tax-exempt organization” means any organization described in section 501(c) that is exempt from Federal income tax under section 501(a). However, an organization that is not exempt from Federal income tax solely because the organization has made more than two disqualified political committee contributions is treated as exempt from Federal income tax for purposes of the definition of “specified tax-exempt organization” with respect to the first three disqualified political committee contributions of the organization. In effect, this rule provides that an organization that makes a third disqualified political committee contribution (1) loses its exemption from Federal income tax and (2) is subject to a penalty with respect to that third contribution.

The term “disqualified political committee contribution” means, with respect to a 501(c) organization, any contribution made by the organization to a political committee if the organization received, during any testing period, a “contribution or gift”<sup>9</sup> from a foreign national.<sup>10</sup> The term “political committee,” as defined in section 301 of the Federal Election Campaign Act of 1971,<sup>11</sup> means (1) any committee, club, association, or other group of persons which receives contributions aggregating in excess of \$1,000 during a calendar year or which makes expenditures aggregating in excess of \$1,000 during a calendar year; (2) any separate

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<sup>6</sup> See secs. 170(c) (listing eligible organizations for purposes of the income tax deduction), and secs. 2055(a), and 2106(a)(2)(A)(iii) (listing eligible organizations for purposes of the estate tax deduction).

<sup>7</sup> See sec. 2522(a) (listing eligible organizations for purposes of the gift tax charitable deduction).

<sup>8</sup> Sec. 2501(a)(6).

<sup>9</sup> Within the meaning of section 6033(b)(5).

<sup>10</sup> For this purpose, a “foreign national” means (1) a foreign principal, except that the term “foreign national” does not include any individual who is a U.S. citizen, or (2) an individual who is not a U.S. citizen or a national of the United States, and who is not lawfully admitted for permanent residence. Sec. 319(b) of the Federal Election Campaign Act of 1971 (52 U.S.C. sec. 30121(b)).

<sup>11</sup> 52 U.S.C. 30101.

segregated fund;<sup>12</sup> or (3) any local committee of a political party which receives contributions aggregating in excess of \$5,000 during a calendar year, or makes payments that are not contributions or expenditures that aggregate in excess of \$5,000 during a calendar year, or makes contributions aggregating in excess of \$1,000 during a calendar year or makes expenditures aggregating in excess of \$1,000 during a calendar year.<sup>13</sup> The term “testing period” means, with respect to any contribution by a 501(c) organization, the eight-year period ending on the date of the organization’s contribution, except that the period does not include any period before the date of enactment.

### **Effective Date**

The proposal is effective for contributions made on or after January 1, 2025, by organizations described in section 501(c).

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<sup>12</sup> As established under 52 U.S.C. sec. 30118(b).

<sup>13</sup> 52 U.S.C. sec. 30101.

## B. Estimated Revenue Effects of the Proposal

The proposal is estimated to have the following effect on Federal fiscal year budget receipts:

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Fiscal Years												
[Millions of Dollars]												
<u>2024</u>	<u>2025</u>	<u>2026</u>	<u>2027</u>	<u>2028</u>	<u>2029</u>	<u>2030</u>	<u>2031</u>	<u>2032</u>	<u>2033</u>	<u>2034</u>	<u>2024-29</u>	<u>2024-34</u>
[1]	[1]	[1]	[1]	[1]	[1]	[1]	[1]	[1]	[1]	[1]	[1]	[1]

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[1] Gain of less than \$500,000.