

# NAACP resists investigation by IRS, charges political motivation

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In a clear case of political vendetta, the Internal Revenue Service (IRS) has threatened the National Association for the Advancement of Colored People (NAACP) with loss of its tax-exempt status. Last summer, its chairman, Julian Bond, criticized the Bush administration's war policy and its attitude to the conditions facing black Americans at the organization's national convention, sparking the IRS action.

On January 31, the civil rights organization sent a letter to the IRS stating it would not provide documents it requested as a part of its probe and denounced the government for launching a politically motivated audit. Bond aptly called the investigation "Nixonian," referring to the Nixon administration's blatant use of the tax agency against his political critics.

"The timing of the investigation is critical here," stated Angela Ciccolo, attorney for the NAACP, to the *Washington Post*. "The remarks were made in July, and in October, when we're trying to register African American voters, we get this order. We think it is important to stand up to this type of intimidation, especially in an election year."

The investigation began when the IRS notified the NAACP on October 8, 2004, that the organization's tax-exempt status was under review. In the letter, the IRS said it "received information" that NAACP chairman Julian Bond "condemned the administration policies of George W. Bush on education, the economy and the war in Iraq" in his speech on July 11.

A copy of the letter provided by Bond to the Associated Press states, "[L]eaders cannot make partisan comments in official organization publications or at official organizational functions" and maintain their tax-exempt status. On January 14, the IRS issued a summons to the NAACP for information related to Bond's speech. The IRS asked who authorized the speech and also demanded an accounting of all expenses for the Philadelphia convention.

Under US tax law, organizations deemed "tax-exempt" under IRS code 501(c)(3) offer their donors a reduction on their federal income taxes. For these groups, the classification is critical, and in the case of the NAACP, millions of dollars would be lost, crippling the organization.

While it is illegal under the IRS code to use tax-exempt donations expressly for a political campaign, the exact charge of the government against the NAACP has not been released. Nor has the NAACP stated exactly what the government requested in the January 14 letter.

A June 2004 letter to tax-exempt organizations stated that "prohibited political campaign activity depends upon all the facts and circumstances in each case," but stated that 501(c)(3) organizations may not "directly or indirectly participate" in any political campaign.

At the convention, Bond said that the NAACP officially took a nonpartisan position on the election without endorsing any candidate. "The NAACP has always been nonpartisan, but that doesn't mean that we're non-critical," Bond stated at the July convention and restated in a letter on the NAACP's web site. "For as long as we have existed, whether Democrats or Republicans have occupied the White House, we've spoken truth to power.... When any political party places politics over principle, we give them nonpartisan hell!"

"It is Orwellian to believe that criticism and partisanship are the same thing," charged Bond. "It's just unbelievable that the critiquing of the president would bring the weight of the IRS down on you.... We think that every American, no matter what political party they belong to, should be outraged by this."

In the disputed July speech, Bond was reported to have said one candidate in the election was an expression of "moving the country backward through history—surrendering control of government to special interests, weakening democracy, giving religion veto power over science, curtailing civil liberties, despoiling the environment," while the other candidate promised "democracy and giving the people, not plutocrats, control over their government."

Bond said his speech was in line with those of NAACP leaders who have praised or criticized Republican and Democratic administrations in the past. Clearly, what is new is the vicious broadside launched by the Bush administration to attempt to silence and intimidate its opponents.

In the January 31 reply letter to the IRS, the NAACP states, "It appears that political pressure, rather than any sound legal authority, motivated the Service" to begin the audit. The letter was authored by NAACP lawyers Marcus Owens and Lloyd Mayer. Owens is the former head of the IRS office that reviews tax-exempt organizations.

Owens told the *Washington Post* the IRS was using a broader definition of political activity than it has in the past. "This is highly questionable," stated Owens, admitting the "interesting alacrity with which the IRS jumped on this."

Three weeks after the IRS sent the October letter, literally on the eve of the presidential election, three Democratic Party congressmen—Charles Rangel of New York, John Conyers of Michigan and Fortney "Pete" Stark of California—wrote a letter to the IRS expressing their opposition to the investigation. They charged the probe was designed to intimidate the organization and black voters on the eve of the elections and demanded an explanation.

OMB Watch, a non-profit advocacy organization dedicated to lifting the veil of secrecy on the Office of Management and Budget, also emphasized that the IRS audit of the NAACP was the latest episode of a growing pattern of intimidation of tax-exempt organizations that

criticize the Bush administration, aimed at limiting their ability to speak out. The watchdog organization revealed that the National Education Association (NEA) and a dozen other nonprofit groups have also been audited by the IRS or investigated by a government agency for similar reasons.

“The election-eve IRS investigation regarding the nonprofit status of NAACP, the nation’s oldest and largest civil rights organization, is part of a growing pattern of intimidation and suppression of free-speech and advocacy rights of charities and other nonprofits,” states OMB Watch on its web site.

OMB Watch reported that the NEA was investigated by the IRS for political reasons. The NEA is the largest teachers union in the country with 2.7 million members. Similar to other trade unions, it established a legally allowed segregated fund that supported policies in the interest of the union. Those policies often translated into support primarily for Democratic Party candidates, although 10 percent was used for Republicans and independents.

The union, however, has won the particular enmity of the Bush administration for playing a prominent role in opposition to the administration’s No Child Left Behind Program, (which does the opposite of what the name implies). Rod Paige, former education secretary under the first Bush administration, shocked a meeting of governors when he called the NEA a “terrorist organization.”

One of the organizations involved in the attack on the NEA is the right-wing Landmark Legal Foundation. Landmark President Mark R. Levin said in a news release issued in November 2003, “We provided the IRS with a chapter and verse road map into the union’s political expenditures. It appears the NEA may finally be called to account for its failure to tell the government—and its members—how much it is spending on politics.”

On its web site, Landmark reports that in December 2000 it had filed its fourth IRS complaint against the NEA, charging that the union spends dues money on the campaigns of Democratic Party candidates that it does not report in taxes. Landmark, part of a growing antidemocratic movement to undermine public education, was also involved in the Milwaukee school choice program that allowed public money to be used to send students to Catholic schools, thereby subsidizing religious institutions.

The NEA also came under the scrutiny of right-wing Republican Representative Charles Norwood of Georgia, who sent a letter to the IRS asking that the union be carefully examined because it was involved in political activity.

A news release published by the congressman on his web site applauds the IRS for investigating the union and says he encouraged it after he held a hearing on the union titled, “An Assessment of the Use of Union Dues for Political Purposes Against the Will of the Rank and File.” The newsletter says the purpose of the hearing “was to determine whether labor unions—most notably, the NEA—violated the Internal Revenue code by spending tax-exempt funds on political activities without reporting such activities. Following the hearing, Norwood forwarded a letter to the IRS officials requesting a formal investigation into these matters.” [See [http://www.house.gov/apps/list/press/ga09\\_norwood/IRSNEA.html](http://www.house.gov/apps/list/press/ga09_norwood/IRSNEA.html)]

OMB Watch cites a growing trend on the part of the Bush administration to attack the free speech and advocacy rights of charities and nonprofits. In a report titled, “An Attack on Nonprofit Speech: Death By a Thousand Cuts”, the watchdog group cites the increased use of government agencies to use funds as a wedge against critics of government policies.

Any serious student of history will recognize from these revelations that the Bush administration and a section of his political supporters are taking a page from the notorious use of the IRS by the Nixon administration. Although previous governments—including the Kennedy administration—used the IRS and other government agencies against their political enemies, the Nixon administration took it to its most sinister level. In 1972, Nixon ordered the IRS to investigate the supporters of George McGovern during his bid for president and later developed the notorious “Enemies List” of political opponents he sought to destroy.

In a recently published book, *Power to Destroy: The Political Uses of the IRS from Kennedy to Nixon*, author John A. Andrew reveals that the list included the names of more than 700 individuals whose taxes the White House requested be audited. Those on the list included Harvard President Derek Bok, entertainer Bill Cosby, Kennedy staffer Mary Jo Kopechne, several newsmen (including David Brinkley, Sander Vanocur, Marvin Kalb and Seymour Hersh), the activist Bayard Rustin and I.F. Stone, and establishment figures like Robert McNamara and Clark Clifford.

Andrew provides an interesting view into the workings of the White House during the Nixon years. In his book, he documents the outlook of Patrick Buchanan, Nixon’s speech writer and former presidential candidate, who was especially keen on using the IRS against individuals and organizations who were either supportive of the Democratic Party or critical of the Nixon administration. Andrew says Buchanan wanted the termination of tax-exempt status for all organizations deemed to be liberal.

After receiving a mailing from Martin Luther King’s Southern Leadership Council that he claimed was political, Buchanan wrote to H.R. Haldeman, Nixon’s White House chief of staff who was indicted in the Watergate conspiracy, asking if “ ‘we can at least see to it that the head of the IRS jerks the tax-exemption of these people.’ It would be a warning, added Buchanan, and despite the ‘considerable howling from the blacks and liberals,’ it was necessary if ‘we are not simply going to roll over and play dead’ ” (Andrew, p. 206).

Nixon was the crudest, stating tax audits should be especially used against Jewish contributors to the Democratic Party. “What about the rich Jews?... Go after ‘em like a son of a bitch,” the president could be heard saying on White House tapes.

“You know, the big Jewish contributors to the Democrats. Could we please investigate some of the c—s—ers? That’s all,” he told an aide.

The launching of investigations of this nature has a long and sordid history in the United States. The question is posed by the recent IRS investigation of the NAACP: Is this a replay of the “Enemies List” by the Bush administration?

Not surprisingly, a report released February 17 by Treasury Inspector General for Tax Administration (TIGTA) has whitewashed the IRS, claiming the tax agency has followed “established procedures” in deciding which tax-exempt organizations to investigate for improper involvement in last year’s political campaign.



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