

January 19, 2021

The Honorable Charles P. Rettig
Commissioner
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, D.C. 20224

Commissioner Rettig,

In late December 2020, as the COVID-19 pandemic reached unprecedented levels, Turning Point USA, a 501(c)(3) nonprofit organization, promoted and held two large events for students and young people in Palm Beach County, Florida, including a winter gala event at the Mar-a-Lago Club. According to press reports and social media posts, many participants gathered and mingled indoors without wearing masks, in violation of Palm Beach County's COVID-19 regulations.¹ In holding these "superspreader" events, Turning Point USA knowingly exposed hundreds of young people and staff working at the events to serious risk of infection.

In light of these actions, the IRS should review whether Turning Point USA should continue to enjoy its tax-exempt nonprofit status. Established law has long held that an organization is not eligible for tax exemption under section 501(c)(3) if a purpose of the organization is contrary to public policy or is illegal.² IRS has established a three-part test to determine whether an organization's activities are consistent with tax exemption under section 501(c)(3): (1) whether the purpose of the organization is charitable; (2) whether the activities are not illegal, contrary to a clearly defined and established public policy, or in conflict with express statutory restrictions; and (3) whether the activities are in furtherance of the organization's exempt purpose and are reasonably related to the accomplishment of that purpose.³ Turning Point USA's reckless decision to host potential "superspreader" events, in open violation of local COVID-19 regulations, put children and others at risk, and was clearly contrary to the public good.

Tax-exempt status provides a substantial benefit to charitable organizations and reflects the federal government's endorsement of an organization's activities. Organizations that knowingly put in danger minors entrusted to their care should not enjoy the benefits of tax-exempt status.

¹ E.g., Paulina Villegas and David A. Fahrenthold, *Young Conservatives Mingled Maskless at Mar-a-Lago and Partied with a Money Cannon*, WASH. POST, Dec. 21, 2020, <https://www.washingtonpost.com/politics/2020/12/21/turning-point-covid-party/>.

² Restatement (Second), Trusts (1959) Sec. 377; *Bob Jones Univ. v. United States*, 639 F.2d 147 (4th Cir. 1980), *aff'd*, 461 U.S. 574, 103 S. Ct. 2017, 76 L. Ed. 2d 157 (1983).

³ Rev. Rul. 80-278, 1980-2 C.B. 175.

Accordingly, I urge the IRS to review whether it should revoke Turning Point USA's tax-exempt status.

Sincerely,

A handwritten signature in blue ink, appearing to read "Sheldon Whitehouse", is written over a horizontal line.

Sheldon Whitehouse
United States Senator