

ENDOWMENTS AND FOUNDATIONS

April 24, 2025 02:07 PM 47 minutes ago

Legal hurdles could block Trump's climate nonprofit tax threat

By [Palash Ghosh](#)



(Getty Images)

President Donald Trump's administration may seek to revoke the tax-exempt status of nonprofit institutions and endowments engaged in climate activism, but the attempts may not get past legal challenges, experts said.

White House officials earlier in April were weighing avenues to strip some environmental nonprofits of their tax-exempt status, targeting organizations seen as standing in the way of Trump's push for more domestic oil, gas and coal production, [Bloomberg](#) and [other media outlets](#) reported.

Institutional investors in the ESG space are skeptical such a move would survive the courts.

Danielle Fugere, president and chief counsel of As You Sow, an institutional shareholder representative and advocacy group, said she is "extremely skeptical" that the Trump administration would be able to defend in court an executive order that arbitrarily excludes

environmental groups from 501(c)(3) status due to the administration's policy preference at the time.

"The intent of the rumored actions seems to be geared at generating fear, similar to what we have seen with the administration's actions at [Harvard](#)," she said. "I also don't believe a president has the legal authority to compel the IRS to revoke the tax-exempt status of any institution or organization he doesn't like."

Fugere added that even if the Internal Revenue Service were to create new criteria for such revocation, it would still have to go through a lengthy round of rulemaking.

"Overall, such an order would not be immediately actionable. Moreover, arbitrarily redefining 501(c)(3) status to meet a current president's policy preferences is contrary to free speech, democratic processes, and not something that even conservative nonprofit groups would favor," she added.

In the event that these nonprofit institutions lose their tax-exempt status, Rick Cohen, chief communications officer and chief operating officer of the National Council of Nonprofits, said the results "could be devastating."

"While nonprofits aren't exempt from all taxes, suddenly facing new income, property and sales taxes at a time when finances are already stretched can lead a nonprofit to need to make cuts to programs that people are relying on every day," he said. "It may mean laying off staff or closing their doors entirely. On top of that, donations to the organization would no longer be deductible. And we know that will mean reductions in giving. There are also many grant programs that require tax exemption for eligibility. This would potentially make already-stretched organizations have higher costs and lower revenues."

[A Flourish chart](#)

No lawful mechanism

Jeffrey S. Tenenbaum, managing partner at Tenenbaum Law Group, a Washington-based legal firm that specializes in representing nonprofits, said "it is important to note that neither the president, the Justice Department, the Treasury Department, nor the IRS have the ability to revoke the federal tax-exempt status of any entity through executive order or with the mere stroke of a pen."

Tenenbaum noted "there are well-established procedures for revoking federal tax exemption" and these procedures "require individual case-by-case IRS audits of each

organization, with ample opportunity for the entity to defend itself, and including multiple routes of appeal.”

Tenenbaum added “there simply is no lawful mechanism for the president, IRS, or others in the Trump administration to revoke the tax-exempt status of multiple nonprofits — or even a single nonprofit — without following this long-standing process.”

Stephanie Pries, founder and managing member of Endowment Legal Services and the former director of investment legal and compliance at the \$20.4 billion Notre Dame investment office, South Bend, Ind., also said that neither Trump nor the Justice Department can unilaterally revoke the federal tax-exempt status of a 501(c)(3) endowment.

“The first thing that would have to happen is that there would have to be an IRS audit of the university, usually on site where there is a ton of documentation demanded by the IRS auditors, which takes months and months where the organization would have ample opportunity to defend itself,” she said.

“Then the IRS would have to draw a conclusion of the audit where, hypothetically, the IRS could make a recommendation that the organization’s tax- exempt status be revoked. In that case, the tax-exempt organization could use the IRS’ process to appeal that decision. All the while the organization would remain tax-exempt.”

IRS appeal

If the IRS decides to revoke the tax-exempt status of any organization, then that organization could appeal that decision to the U.S. tax courts or the federal courts, as with all litigation, she said.

Based in Washington, Endowment Legal Services provides fractional in-house counsel for endowments and other institutional investors.

“When the federal government threatens to silence any charitable organization based on politics, we all pay the price,” said Michelle Roos, executive director of the Environmental Protection Network, in a statement.

“Silencing science and civic discourse doesn’t just weaken a few institutions; it threatens the rights, health, and future of every community. It’s especially dangerous to muzzle universities and nonprofit public health organizations when the Environmental Protection Agency and other agencies are being gutted and blocked from doing their jobs. When the

government goes dark, the public needs nonprofit public health organizations more than ever to protect the air we breathe, the water we drink, and our communities.”

Environmental Protection Network is a volunteer organization that comprises 650 former EPA career staff and political appointees, and works to ensure that EPA advances policies, budgets, and institutional changes to address environmental injustices and climate, as well as other pressing public health needs.

Danaka Katovich, national co-director of climate activist group Code Pink, said that trying to strip tax-exempt status from climate justice nonprofits is an attempt to silence a movement for the planet.

“However, the climate movement and greater movements for justice are made up of the masses that want a better world — none of Trump’s attempts to quell people’s demands for a better life will be successful in the long run,” Katovich added.

“We denounce any illegal and suppressive attacks on organizations that lead the climate movement, and we believe in the people’s ability to see through repression and demand better.”

Related Article

Palash Ghosh

Senior Reporter

212-210-0751

Pensions&Investments