

# IRS eliminates donor disclosure obligations for many nonprofit entities

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Earlier this week, the Treasury Department and the Internal Revenue Service (IRS) released a new revenue procedure (Rev. Proc. 2018-13) that puts an end to the requirement that certain nonprofit organizations disclose donor names and addresses in conjunction with the submission of their annual 990 information returns. The move, hailed by many tax-exempt organizations and First Amendment advocates, conveys a desire by the federal government to push back against efforts by transparency advocacy groups and certain state governments to maintain and expand obligations on nonprofits to disclose information on personal contributors.

The new framework eliminates the obligation on many tax-exempt entities—including 501(c)(4) social welfare organizations and 501(c)(6) trade associations—to disclose donors giving more than \$5,000 annually on Schedule B of their organizational 990 returns. It does not, however, affect 501(c)(3) charitable organizations and 527 political organizations (PACs and similar political committees), which will still be bound to the long-standing requirement (due to statutory mandate) that they report donor names and addresses, as well as details concerning the nature of the contribution itself.

The Treasury Department explained in a press release that the new rule is intended to ease both the reporting burden on impacted nonprofit organizations, which will no longer have to enter names and addresses into their information return submission, and the administrative burden on the IRS, which will no longer have to redact names from Schedule Bs before publishing them or providing them to requestors. Despite the changes, 501(c)(4) and 501(c)(6) organizations will still be required to collect donor names and addresses on an internal basis in the event of IRS audit.

First Amendment advocates have long argued that the IRS' previous request for donor name and address information has had a chilling effect on individual and organizational contributors to nonprofit organizations that engage in contentious or unpopular issue areas—particularly in light of inappropriate public disclosures by the IRS and other state charitable enforcement bodies. By contrast, opponents contend that eliminating donor disclosure requirements effectively eliminates appropriate IRS oversight of exempt organizations, including those that actively seek to influence American politics.

This broader policy debate will go on, but the IRS' new rule will go into effect on December 31, 2018, for covered nonprofits. As such, 501(c)(4) and 501(c)(6) organizations will be able to avoid donor name and address disclosure on their 2019 Schedule B filings for the 2018 tax year. Any 2017 tax year filings that are pending submission, however, will still need to list on Schedule B the names and addresses of donors giving more than \$5,000.

For more information on these issues, please don't hesitate to contact the Dentons Political Law and Tax teams.

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