

JULY 23, 2018

## Treasury Department and IRS End Donor Disclosure Requirements for Many Tax Exempt Organizations

On July 16, 2018, the U.S. Department of the Treasury and the IRS issued **Revenue Procedure 2018-38**, announcing that certain tax-exempt organizations are no longer required to list personally-identifiable information about their donors on their annual information returns.

Most exempt organizations had been required to provide this information on Form 990, Schedule B. According to the Rev. Proc., the new rule reflects the IRS's determination that with respect to the affected organizations, "[t]he IRS does not need personally identifiable information of donors to be reported on Schedule B of Form 990 or Form 990-EZ in order for it to carry out its responsibilities. The requirement to report such information increases compliance costs for some private parties, consumes IRS resources in connection with the redaction of such information, and poses a risk of inadvertent disclosure of information that is not open to public inspection."

Critics of the move, on the other hand, worry that the change will make it harder to discover who is funding political spending.

Under the new rules, non-charitable organizations exempt from tax under Section 501(a) of the Internal Revenue Code—including 501(c)(4) social welfare organizations and 501(c)(6) trade associations—no longer have to report donor-identifying information on Schedule B. These organizations must continue to collect and keep donor names and addresses in their records, and must provide that information to the IRS upon request. However, Form 990 filers exempt under Sections 501(c)(3) (charities) and 527 (political organizations) remain required to provide donor-identifying information on Schedule B.

Some state regulators have also collected donor-identifying information, through a requirement that organizations submit their complete Form 990s, including Schedule B. In recent years, some organizations have challenged this practice. While these challenges have been mostly unsuccessful in the courts (so far), they have raised the profile of some organizations' concerns about public disclosure of donor lists. (The rest of Form 990 is publicly available, but filers can generally withhold the donor-identifying information on Schedule B, and the IRS is generally barred from releasing it. However, errors have occurred, and both the IRS and state regulators have improperly released donor information on occasion. See our discussion of Schedule B disclosure [here](#).) As a result of the new policy, state regulators who collect Form 990 will no longer automatically receive information identifying an organization's donors, unless state law

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### AUTHORS



**Eric K. Gorovitz**  
Principal



**A&C Alumni**  
Principal

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Nonprofit Law Matters looks at legal issues in the nonprofit and tax-exempt organizations world. Written by the attorneys and paralegals of Adler & Colvin, it provides updates and analysis regarding philanthropy, charity, and other exempt organization issues.

### EDITORS



**Stephanie L. Petit**  
Principal



**Eric K. Gorovitz**  
Principal

separately requires it.

This policy change is applicable to tax years ending on or after December 31, 2018, which means that organizations filing based on a calendar year will be exempt from disclosing their 2018 donors.