

IRS CHANGES POLICY ON DONOR DISCLOSURE

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On Monday, July 16, 2018, the U.S. Department of Treasury announced it will no longer require tax-exempt organizations that receive non-exempt funds to disclose identifying information about donors to the IRS. In particular, 501(c)(6) trade associations and 501(c)(4) social welfare organizations will no longer be required to submit donor names and addresses on their annual Form 990 tax returns.

Background

501(c)(6) and 501(c)(4) organizations are permitted to make expenditures for purposes outside the organization's tax-exempt purpose, namely political expenditures. Prior to Monday's announcement, as a way to arguably police the tax exempt status of these organizations, the IRS required such organizations to disclose their donor names and addresses on Schedule B of their Form 990 tax return. The donor information submitted to the IRS on Schedule B was to be confidential and the IRS was required to redact donor information prior to making Form 990s publicly viewable.

Why the Change

The Department of Treasury in its press release explained the IRS's previous policy requiring donor information redactions was not necessary because "the IRS makes no systematic use of Schedule B with respect to these organizations in administering the tax code." Furthermore, several years ago the IRS came under scrutiny for purportedly making confidential donor information public and improperly using confidential donor information to target tax-exempt organizations. Therefore, the Department of Treasury also concluded that the "new policy will better protect taxpayers by reducing the risk of inadvertent disclosure or misuse of confidential information."

What the Policy Means

Even though the policy relieves 501(c)(6) and 501(c)(4) organizations from disclosing their donors to the IRS, it appears as though such organizations are still otherwise required to complete Schedule B – itemizing the **amounts** of contributions from donors who give \$5,000 or more in a year. The revised reporting requirements apply to returns for taxable years ending on or after December 31, 2018.

Importantly, 501(c)(6) and 501(c)(4) organizations must continue to maintain donor identifying information as internal records in the case that the IRS should require to review them in administering the internal revenue laws.

501(c)(3) charities are still required to disclose donor names and addresses on Schedule B, unless they are otherwise exempted. Similarly, 527 political organizations that file Form 990 returns are still required to disclose donor names and addresses.

State-Related Issues

A few states, including New York and California, require 501(c)(4) organizations to register as charitable organizations and file unredacted versions of their Form 990 Schedule B. Because such organizations will no longer include donor identifying information on their Schedule B filings, it is unclear as to how these states will adjust to the new policy.