

IRS Comments on Updating Disclosure Rules

Dear Ms. Judson,

The Pelican Institute for Public Policy is a 501(c)(3) non-profit, nonpartisan research and educational organization and also currently serves as the leading voice for free markets in Louisiana. We are supported by donors both across the state of Louisiana and the U.S., and we take the privacy of our donors seriously. With this in mind, we offer the following comments in support of the proposed rule IRS-2019-0039-0001 updating guidance under Section 6033 regarding the reporting requirements of exempt organizations.

All Americans have the right to support causes they believe in without the fear of harassment or retaliation. This is a core principle of our country as enshrined by the First Amendment. The Internal Revenue Service (IRS) has the opportunity to protect this principle for American citizens, while continuing its mandate to enforce federal tax law.

Revising tax regulations to require only 501(c)(3) and 527 organizations to provide the names and addresses of contributors on their tax filings is a step in the right direction to protect the First Amendment rights of all Americans. We join many others in commending the IRS for considering this change to tax law.

Forced disclosure of donors for non-profit groups runs counter to the ideals of this nation. Non-profit groups are the backbone of civil society in America, and our government has a rich history of allowing them to flourish. But when the government compels disclosure of a non-profit's financial supporters, it can chill association and the speech of these groups.

This is not simply the opinion of the Pelican Institute. In the landmark case *NAACP v. Alabama*, the Supreme Court ruled 9-0 that forced disclosure of the NAACP's donors was an infringement on their rights of association. Indeed, the Supreme Court has "repeatedly found that compelled disclosure, in itself, can seriously infringe on privacy of association and belief guaranteed by the First Amendment."

Recently, both state attorneys general and members of Congress have asserted that a general interest or an interest in preventing fraud was enough to compel the disclosure of supporters of non-profit organizations. But there are few, if any, real-world examples of the collection of this data preventing charitable fraud or other types of crimes.

The proposed changes to the law realize these facts. The IRS does not need donor information for its enforcement of tax law. Moreover, as the IRS has stated, it can obtain any additional information needed to enforce the tax code through its ordinary investigatory process instead of a bulk disclosure provision.

Ending compelled donor disclosure is not only the right thing to do for philosophical reasons, it's also the right thing to do for practical reasons. Much of the data the IRS is currently collecting cannot be legally disclosed to the public. Changing the rule removes the responsibility of protecting that sensitive data from both illegal breaches by third parties and leaks from IRS officials with political grudges. With recent examples, such as the IRS tea party scandal and the state of California posting sensitive donor information online, simply not collecting the data decreases the likelihood of donor exposure considerably.

The proposed rule changes would significantly strengthen Americans' rights to freedom of speech, privacy and association. It would also reduce the burdens on the IRS to protect the data of Americans, both from external and internal threats. The IRS should adopt these rules to further enshrine the protections of the First Amendment.

Sincerely,

Daniel Erspamer

CEO

Pelican Institute