

Comments in Opposition to the Proposed Gift Substantiation Regulation

December 15, 2015



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CC:PA:LPD:PR (REG-138344-13)
Room 5203
Internal Revenue Service
PO Box 7604, Ben Franklin Station
Washington, DC 20044

Dear Madam/Sir:

The undersigned nonprofit organizations write to express strong opposition to the proposed gift substantiation regulation (IRS REG-138344-13) and urge that it be withdrawn and not implemented. We have serious concerns that the proposed voluntary reporting regime is inappropriate because it would expose the public to increased risk from identity theft, impose significant costs and burdens on nonprofit organizations, and create public confusion and disincentives for donors to support the work of nonprofits.

Each of the undersigned organizations may file separate comments regarding how the proposed regulations could affect its ability to advance mission in communities across the country. We submit this joint letter to demonstrate our universal opposition based on the following common concerns:

- **Protecting the Public Should be the Highest Priority:** Like other law enforcement agencies, the IRS has consistently warned individuals to give out their Social Security numbers only when “absolutely necessary.” A charitable nonprofit should never be asking a donor for her or his Social Security number when soliciting donations. If someone is asking in relation to a donation, that should be considered a sign of a scam or fraudulent solicitation and reported to appropriate law-enforcement authorities. The proposed donee gift form, if utilized, would require nonprofits to ask donors to give out their Social Security numbers when it is not absolutely necessary. This conflicting message from the IRS is certain to confuse the public and result in fraud.
- **Administrative Burdens and Fiduciary Duties:** Collection, storage, and reporting of Social Security numbers to the IRS is a costly additional endeavor that can impose significant risks on entities that are hacked. To protect sensitive donor information, nonprofits would have to divert resources from mission to purchase expensive data security systems that have no guarantee of protecting the public. Nonprofits that collect Social Security numbers and improperly protect the data could be subjecting themselves and their board members to lawsuits asserting a breach of fiduciary duty.
- **Disincentive for Donor Support:** In 2009, the Government Accountability Office reviewed a proposal similar to the current draft regulation and found that “[t]axpayers may reduce giving because they are reluctant to provide Social Security numbers to charities given concerns over identity theft.” This consequence of reduced support for charitable works in communities was considered unacceptable then and remains a risk that cannot be countenanced today.

Our opposition is steadfast even as we acknowledge that the proposal is voluntary at this time and IRS and Treasury openly acknowledge that if promulgated, the new form would be used, if at all, “in an extremely low percentage of cases.” The regulatory background materials also state that the IRS has received only a “few requests” to set up this alternative reporting regime and that the current “system works effectively.” If the current system works and only a few are interested, when the costs,

burdens, and harm to the public so great, then we see no legitimate reason for the IRS to proceed.

The federal government must take action to remove the confusion created by the pending rulemaking. In closing, the undersigned organizations call on the IRS and Treasury to withdraw the proposed regulations.

Respectfully submitted,

Agriculture Future of America
Akron Community Foundation
Alabama Association of Nonprofits
Albertina Kerr Centers
Alliance for Nonprofit Excellence
Alliance for Strong Families and Communities
Alliance for Nevada Nonprofits
Alliance of Arizona Nonprofits
Alpha-1 Foundation
The ALS Association
Alternatives, Inc.
America's Charities
American Alliance of Museums
American Association of Nurse Anesthetists Foundation
American Civil Liberties Union
American Council on Education
American Foundation for Suicide Prevention
American Heart Association
American Indian Higher Education Consortium
American Kidney Fund
American Public Media
American Red Cross
American Writers Museum
Americans for the Arts
Angelic Organics Learning Center
Angry About Alzheimer's
The Arc
The Arcadia Institute
Arizona Community Foundation
Arkansas Community Foundation
Arkansas Nonprofit Alliance
The Arnold P. Gold Foundation
Association for Healthcare Philanthropy
Association of American Universities
Association of Art Museum Directors
Association of Baltimore Area Grantmakers
Association of Direct Response Fundraising Counsel

Association of Fundraising Professionals
The Association of Junior Leagues International, Inc.
Association of Public and Land-grant Universities
Asthma and Allergy Foundation of America
Baltimore Community Foundation
Barth Syndrome Foundation
Batten Disease Support and Research Association
BBB Wise Giving Alliance
BoardSource
The Butterfly Foundation
CalNonprofits
Camp of Dreams
Carolina Honduras Health Foundation
Catholic Charities USA
Center for Non-Profits
Children's Place Association
Colon Cancer Alliance
Colorado Nonprofit Association
Communities Foundation of Texas
Community Foundation of Grant County, Indiana, Inc.
Community Foundation of Greater Memphis
Community Foundation of Greater New Britain
Community Foundation of Sarasota County
Community Foundation of Tompkins County (Ithaca, NY)
Community Foundation of Western North Carolina
Community Foundation for Southeast Michigan
Community Foundation Lorain County (Elyria, OH)
Community Foundation Public Awareness Initiative
Connecticut Association of Nonprofits
Connecticut Council for Philanthropy
COPD Foundation

Cord Blood Association
Council for Advancement and Support of Education
Council for Christian Colleges & Universities
Council on Foundations
Dance/USA
Dayton Foundation
Delaware Alliance for Nonprofit Advancement (DANA)
DMA Nonprofit Federation
Eastern Illinois Foodbank
Emerald City Theatre
Environmental Law & Policy Center
Environmental Working Group
Eugene & Agnes Meyer Foundation
Florida Philanthropic Network
The Foraker Group
Forefront
Foundation for Ichthyosis & Related Skin Types, Inc.
Goodwill Industries International, Inc.
Grantmakers of Western PA
Grassroots Collaborative
Greater Houston Community Foundation
Greater Milwaukee Foundation
Groundswell Educational Films
H.O.M.E.
Habitat for Humanity International
Hawai`i Alliance of Nonprofit Organizations
The Henry Ford
Housing Resources, Inc.
Howard Brown Health
Huntington's Disease Society of America
Idaho Nonprofit Center
Illinois Collaboration on Youth
Immune Deficiency Foundation
Independent Sector
Indiana Association of United Ways
Indiana Philanthropy Alliance
International Primate Protection League
Jewish Association for Developmental Disabilities
Jewish Federation of Atlantic & Cape May Counties
Jewish Federation of Greater Los Angeles
Jewish Federation of Metropolitan Chicago
Jewish Federations of North America
Jewish Federation of Somerset, Hunterdon & Warren Counties

Jewish United Fund of Metropolitan Chicago
JNH for Mathematics and Sciences
Junior League of Birmingham, Michigan, Inc.
Junior League of Greater Fort Lauderdale
Junior League of Huntsville, Inc.
Junior League of the Lehigh Valley
Junior League of Las Vegas
Junior League of Los Angeles
Junior League of Louisville
Junior League of Northern Westchester
Junior League of Odessa
Junior League of the Oranges and Short Hills, New Providence Presbyterian
Junior League of Philadelphia Inc.
Junior League of Phoenix
Junior League of Pittsburgh, Inc.
Junior League of San Angelo
Junior League of San Antonio
Junior League of San Diego
Junior League of Tuscaloosa
Junior League of Wilmington
JVM International, Inc.
Kalamazoo Valley Habitat for Humanity
Kentucky Nonprofit Network
LeadingAge
League of American Orchestras
Louisiana Association of Nonprofit Organizations
Lupus Foundation of America
Lutheran Services in America
Macon County CASA
Maine Association of Nonprofits
March of Dimes
Maryland Association of Nonprofit Organizations
McGregor Fund
Michigan Nonprofit Association
Midwest Pesticide Action Center
The Milligan Foundation, project of Cultural Media Services
Minnesota Citizens for the Arts
Minnesota Community Foundation
Minnesota Council of Nonprofits
Mississippi Center for Nonprofits
Montana Nonprofit Association
The Myositis Association
National Association of College and University Business Officers

National Association of Independent
Colleges and Universities
National Council of Nonprofits
National Down Syndrome Society
National Eczema Association
National Health Council
National Kidney Foundation
National MS Society
National Osteoporosis Foundation
National Pancreas Foundation
National Psoriasis Foundation
The Nature Conservancy
New Mexico Voices for Children
New York Community Trust
New York Council of Nonprofits
NY Funders Alliance
New York Society of Association
Executives, Inc.
Noah's Hope
Nonprofit Association of Oregon
Nonprofit Association of the Midlands
Nonprofit Coordinating Committee of New
York
N.C. Association of Feeding America Food
Banks
N.C. Center for Nonprofits
North Dakota Association of Nonprofit
Organizations
Ohio Association of Nonprofit
Organizations
The Ohio Foundation of Independent
Colleges
Oklahoma Center for Nonprofits
OneStar Foundation
OPERA America

Our Towns Habitat for Humanity
Parkinson's Action Network
Partnership for America's Children
Pennsylvania Association of Nonprofit
Organizations
Prevent Blindness
Prevent Blindness, Ohio Affiliate
Prevent Cancer Foundation
Providers' Council
Racine Community Foundation
Rhode Island Foundation
Rochester Area Community Foundation
St. Paul Foundation
The Sinapi Foundation, Inc.
Sjogren's Syndrome Foundation
SC Assoc. of Nonprofit Organizations
South Haven Community Foundation
Texas Association of Nonprofit
Organizations
Third Sector New England
Traveling Players Ensemble
United Food Bank
United Negro College Fund
United Way Worldwide
Utah Nonprofits Association
Volunteers of America
Washington Nonprofits
West Virginia Nonprofit Association
Wichita Community Foundation
Wings Program, Inc.
Winston-Salem Foundation
Wounded Warrior Project, Inc.
Wyoming Community Foundation
YMCA of the USA