

Update on Nonprofit Donor Disclosure Requirements: IRS Tries Again

September 10, 2019

I. What's Changed?

The IRS has proposed regulations that rescind the requirement to report donor information on the Form 990 for many organizations. The proposed regulations follow a court ruling that the IRS's prior attempt to modify the regulatory requirement (i.e., Rev. Proc. 2018-38) was invalid because it did not conform with the Administrative Procedure Act ("APA"). We first discussed this IRS rule change [here](#) and the subsequent court ruling [here](#).

The proposed regulations also incorporate other statutory changes and sub-regulatory guidance that were not previously reflected in the regulations.

With the proposed regulations, the IRS also issued Notice 2019-47. The Notice clarifies that the IRS will not impose penalties on organizations that relied on Rev. Proc. 2018-38 and did not report the names and addresses of their contributors on the Schedule B of their Forms 990 or 990-EZ filed for a taxable year ending on or after December 31, 2018, and which were filed by July 30, 2019.

II. What to Do?

Organizations may rely on the new proposed regulations once they are published in the Federal Register, which is expected to occur on September 10, 2019. As a result, 501(c) organizations covered by this change with returns due after that time will not need to disclose the names and addresses of donors to the IRS on Schedule B of Form 990. Although organizations may exclude donor names and addresses, they must still report contribution amounts on Schedule B and maintain books and records containing the information. The books and records must be available to the IRS, if requested on audit.

The IRS also requests comments on these proposed regulations. Organizations may want to consider submitting comments to the IRS.

As a reminder, these IRS reporting changes never applied to 501(c)(3) and 527 organizations. Both are required by statute to report their donors on Schedule B unless an exemption applies.

For more information on this Alert or more general information on Form 990 reporting requirements, please contact a member of [Caplin & Drysdale's Exempt Organizations](#) or [Political Law](#) teams.

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