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**NONPROFIT GOVERNANCE & TAX-EXEMPT
ORGANIZATIONS LAW ALERT**

IRS ENDS DONOR DISCLOSURE REQUIREMENTS FOR SOME NONPROFITS

Last month, the Internal Revenue Service (“IRS”) issued a new [revenue procedure](#) affecting tax exempt organizations other than those exempt from taxation under Sections 501(c)(3) (charitable, educational or religious) or 527 (political) of the Internal Revenue Code. This step seems to be a direct response to the Second Circuit’s February [ruling](#) upholding donor disclosure requirements, which we reported on [here](#).

The affected organizations, which include those organized under Sections 501(c)(4) (social welfare), 501(c)(5) (labor unions), and 501(c)(6) (trade unions), are no longer required to report the names and addresses of donors who contribute an annual amount greater than \$5,000 to the IRS unless specifically requested to do so.

Applicable regulations generally require organizations that qualify under Section 501(c) to include on their annual informational return (one of the Form 990 series of returns) the names and addresses of persons who have contributed \$5,000 or more to the organization in a single year. While this information has historically been disclosed to the IRS, and while the completed and submitted Form 990s are generally publicly available (see, for example, www.guidestar.org), this donor data has been excluded from public disclosure.

The new revenue procedure, [Rev. Proc. 2018-38](#), announces that the IRS is relieving the affected organizations from the requirement to report this donor information. The IRS claims that the information is not automatically required for it to satisfy its duty of enforcing the tax laws. “Americans shouldn’t be required to send the IRS information that it doesn’t need to effectively enforce our tax laws, and the IRS simply does not need tax returns with donor names and addresses to do its job in this area,” Steven Mnuchin, the U.S. Treasury Secretary, said in a [statement](#) released on July 16, 2018. Exempt organizations must, however, continue to maintain the information in their records. The IRS preserves the right to request the names and addresses of donors on a case by case basis, if the agency determines that the information is necessary to enforce the tax laws.

This change is particularly notable with respect to social welfare organizations and trade associations. In contrast to the traditional charitable, religious or educational organizations qualifying under Section 501(c)(3), these types of entities can engage in certain limited political activities without automatically triggering the disclosure requirements imposed on traditional political organizations. The change relieves some pressure on donors who expressly fund political activity, and is in keeping with the Trump administration's approach to [reducing enforcement](#) in the exempt organization realm.

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