

October 22, 2018

**BY U.S. MAIL and FAX**

IRS FOIA Request  
Headquarters Disclosure Office  
CL:GLD:D  
1111 Constitution Avenue, NW.  
Washington, DC 20224

Internal Revenue Service  
Central Processing Unit/ IRS FOIA Requests  
Stop 211  
P.O. Box 621506  
Atlanta, GA 30362-3006  
Fax 877-807-9215

Re: IRS Revenue Procedure 2018-38

To whom it may concern:

On July 16, 2018, the Treasury Department and the IRS announced that the IRS will no longer require non-501(c)(3) tax-exempt groups organized under section 501(c) to disclose the names and addresses of their substantial contributors on the Schedule B to Forms 990 and 990-EZ. This change to well-established donor disclosure requirements was released as Revenue Procedure 2018-38 and will directly impact current state filing requirements for exempt organizations operating in New York and New Jersey, which are regulated by the Charities Bureau in the New York Attorney General's Office and the New Jersey Division of Consumer Affairs. A copy of the complete Revenue Procedure text and accompanying Treasury Department Press Release are attached below for reference.

To better understand the Revenue Procedure's administrative origin and development, we the undersigned make the following request for records pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, and IRS implementing regulations, 26 C.F.R. Part 601.

Requested Records:

We request that the IRS produce the following material within twenty (20) business days:

1. All emails, memoranda, and IRS reports concerning the development, implementation, consideration, or evaluation of Revenue Procedure 2018-38. This request includes without limitation:
  - a. Documents discussing the donor reporting requirements in effect for 501(c) tax-exempt entities prior to adoption of the Revenue Procedure;

- b. Documents discussing agency review of Schedule B to Forms 990 and 990-EZ, including documents that support or contravene the July 16, 2018 statement by Secretary Mnuchin that “the IRS simply does not need tax returns with donor names and addresses to do its job in this area;”
  - c. Documents concerning costs and/or other burdens imposed on IRS staff by existing Schedule B reporting requirements;
  - d. Documents concerning costs and/or burdens imposed on 501(c)-exempt organizations by existing Schedule B reporting requirements;
  - e. Documents concerning whether or how changes to existing Schedule B reporting requirements could impact IRS examination practices; and
  - f. Documents concerning inadvertent disclosure and/or misuse of donor information captured in Schedule B.
2. All records not identified by Request No. 1 (above) that concern external inquiries or meetings with external parties regarding the development, implementation, consideration, or evaluation of Revenue Procedure 2018-38, including but not limited to:
- a. Communications with the White House Office of Management and Budget (OMB);
  - b. Communications with the Office of White House Counsel (WHC);
  - c. Communications with any other organization in the Executive Office of the President (outside of the OMB or WHC);
  - d. Communications from private individuals or organizations that requested or proposed agency review of donor disclosure obligations for 501(c)-exempt organizations;
  - e. Agendas and attendee lists for any meetings convened with external parties to consider changes to existing Schedule B disclosure requirements;
  - f. Communications sent in preparation for any such meetings; and
  - g. Communications sent following any such meetings.
3. All records not identified by Request No. 1 (above) that concern internal inquiries or meetings regarding the development, implementation, consideration, or evaluation of Revenue Procedure 2018-38, including but not limited to:
- a. Documents concerning communications from the White House Office of Management and Budget (OMB), including documents concerning whether or how to respond to such communications and copies of any actual response;
  - b. Documents concerning communications from the Office of White House Counsel (WHC), including documents concerning whether or how to respond to such communications and copies of any actual response;
  - c. Documents concerning communications from any other organization in the Executive Office of the President (outside of the OMB or WHC), including documents

concerning whether or how to respond to such communications and copies of any actual response;

- d. Documents concerning communications from private individuals or organizations that requested or proposed agency review of donor disclosure obligations for 501(c)-exempt organizations, including documents concerning whether or how to respond to such requests or proposals and copies of any actual response;
  - e. Agendas and attendee lists for any internal meetings convened to consider changes to existing Schedule B disclosure requirements;
  - f. Communications sent in preparation for any such meetings; and
  - g. Communications sent following any such meetings.
4. Any record of the “discussions with accounting firms and taxpayers” cited as support for a proposal to eliminate Schedule B in the June 7, 2018 Report of Recommendations of the Advisory Committee on Tax Exempt and Government Entities.
  5. All statements, speeches, or presentations made by IRS employees or representatives regarding donor reporting requirements for tax-exempt entities, including press releases as well as formal remarks made on behalf of the IRS or Treasury Department.
  6. All communications between IRS employees or representatives and non-agency representatives regarding the press release issued on July 16, 2018 to announce Revenue Procedure 2018-38.
  7. Each submission in compliance with the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) to the House of Representatives, the Senate, and/or the Comptroller General of the Government Accountability Office (GAO) concerning Revenue Procedure 2018-38.

Please provide all responsive records dating from January 1, 2018 to the date the search is conducted.

Your search for responsive records should include the following offices and individual custodians: Acting Commissioner David J. Kautter; Margaret Von Lienen, Director, Exempt Organizations, Tax Exempt & Government Entities Division; David Horton, Acting Commissioner, Tax Exempt & Government Entities Division; the IRS Office of Chief Counsel; the IRS Office of Governmental Liaison; and the Advisory Committee on Tax Exempt and Government Entities (ACT), including members Michael Engle, Lisa Johnson, Andrew Lipkin, and Jean Swift.

If it is your position that any of the requested records is exempt from disclosure, we request that you provide an index of those records as required by *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973). As you are aware, the Vaughn index should describe each document claimed as exempt with sufficient specificity “to permit a reasoned judgment as to whether the material is actually exempt under FOIA.” *Founding Church of Scientology of Washington, D.C. v. Bell*, 603 F.2d 945, 949 (D.C. Cir. 1979).

Fee Waiver Request:

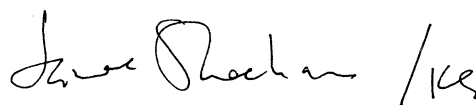
We request a fee waiver pursuant to 5 U.S.C. § 552(a)(4)(A)(iii) and 26 C.F.R. § 601.702(f)(2) as these requests are made by a state government agency acting in the public interest. Disclosure of the requested records will contribute significantly to public understanding of Revenue Procedure 2018-38,

including how the Treasury Department determined that its action would “make our tax system simpler and less susceptible to abuse” and whether the reporting changes that Revenue Procedure 2018-38 adopts were designed to “relieve thousands of organizations of an unnecessary regulatory burden, while better protecting sensitive taxpayer information and ensuring appropriate transparency.”<sup>1</sup>

If this request for a fee waiver is denied, please contact us before incurring any costs in responding to this request. We request that your responses be provided electronically.

Thank you in advance for your attention to this matter. If you have any questions or wish to clarify any of the above requests, please do not hesitate to contact New York Charities Bureau Chief James Sheehan at James.Sheehan@ag.ny.gov or 212-416-8490. We look forward to receiving your response to these requests within twenty days, as required by FOIA.

Sincerely,

Handwritten signature of James G. Sheehan in black ink, with a stylized flourish at the end.

James G. Sheehan  
Chief, Charities Bureau  
Office of the Attorney General of the State of New York  
James.Sheehan@ag.ny.gov

Handwritten signature of Glenn J. Moramarco in black ink, with a stylized flourish at the end.

Glenn J. Moramarco  
Assistant Attorney General  
Office of the New Jersey Attorney General  
Glenn.Moramarco@law.njoag.gov

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<sup>1</sup> See “Treasury Department and IRS Announce Significant Reform to Protect Personal Donor Information to Certain Tax-Exempt Organizations” (July 16, 2018), at <https://home.treasury.gov/news/press-releases/sm426>.