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Critics Blast IRS Plan to Collect Donors' Personal Data

The proposal would help substantiate donations for tax purposes, but nonprofits worry it could deter donors and risk identity theft.

By **Michael S. Fischer** | December 31, 2015

The Internal Revenue Service sure knows how to get a reaction.

By the Dec. 16 deadline for comment on its proposed gift substantiation regulation (http://www.irs.gov/irb/2015-41_IRB/pt06.html) that would allow charities to collect and store donors' personal information, more than 200 nonprofits and thousands of individuals had registered their dismay.

The proposed rules would permit, but not require, nonprofits to file special information with the IRS to substantiate a gift of \$250 or more by Feb. 28 of every year. This return would serve as an alternative to a letter sent to a donor by the nonprofit acknowledging the gift.

The information collected by the nonprofit would include donors' name, address, Social Security or other taxpayer identification number, and the amount of cash or a description of property donated. Nonprofits that use the option would also be required to provide a copy by the February date to each donor listed, revealing information specific to the donor.

In a joint letter (<http://www.councilofnonprofits.org/sites/default/files/documents/Comments-in-Opposition-to-the-Proposed-Gift-Substantiation-Regulation.pdf>) to the IRS, 215 nonprofit organizations said, "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."

Tim Delaney, president and chief executive of the National Council of Nonprofits, told (<http://www.thenonproffitimes.com/news-articles/irs-proposal-could-lead-to-collection-of-donors-ssns/>) *The NonProfit Times* that he was "dumbfounded" by the proposal because the IRS was trying to fix something that wasn't broken. Delaney, whose organization represents some 25,000 nonprofits, said the process of nonprofits collecting donors' personal information could open the door for scam artists.

Moreover, he said, charities could not only lose donations from wary contributors, but also would have to increase data security and insurance expenditures in order to handle the additional information. And they might have a tough time recruiting board members because of associated liabilities.

What prompted the IRS to propose the new rule?

According to analysis by AccountingToday (<http://www.accountingtoday.com/>), some major donors who did not have a receipt to substantiate their charitable gift argued that the receipt was not required if the charity filed an amended Form 990 listing the donation. This, they said, would satisfy the donor's substantiation requirement.

Charities are required to file Form 990s annually.

But the IRS said Form 990 was an unsuitable way to report a gift, absent regulations prescribing how charities could do this.

The vehemence of the reaction to the IRS proposal was captured in a statement by FreedomWorks Foundation (<http://foundation.freedomworks.org/frontpage>), a conservative nonprofit that advocates for smaller government and lower taxes. It said it had collected more than 9,000 comments opposing the proposed rule, nearly a quarter of the approximately 38,000 comments that the "powerful, scandal-plagued" IRS had received.

"Our community sees the threat of what the IRS is proposing," the foundation's chief executive, Adam Brandon, said in the statement. "Although the rule would be 'voluntary' in the beginning, it could become mandatory.

"These unelected bureaucrats are willing to stop at nothing to expand their power even if that means likely deterring Americans from giving to nonprofits and charities that work on issues close to their beliefs."