

Update on Nonprofit Donor Disclosure Requirements

August 1, 2019

I. What's Changed

Earlier this week, in *Bullock v. Internal Revenue Service*, a U.S. District Court—at least temporarily—reinstated the donor disclosure requirement that the IRS eliminated for many 501(c) organizations last year. As of July 2018, the IRS no longer required many organizations, including 501(c)(4) social welfare organizations, to disclose donor names and addresses on Schedule B of their Form 990 for tax years ending on or after December 31, 2018. We first discussed this IRS rule change [here](#). The court invalidated the change because it found that the IRS had failed to follow the public notice and comment process required by the Administrative Procedure Act (“APA”).

II. What To Expect Next

The IRS has several options for moving forward. The two most likely paths are (1) appealing the decision, while requesting a stay of the district court’s order and (2) issuing formal guidance, such as a Notice of Proposed Rulemaking (“NPRM”), which would satisfy the APA’s requirement for public notice and comment.

III. What to do?

501(c) organizations with returns due now are required to submit the names and addresses of donors to the IRS on Schedule B of Form 990. They cannot rely on the July, 2018 guidance to withhold donor information. However, impacted organizations may choose to request an automatic six-month filing extension to give the IRS time to act to preserve the 2018 rule change.

If the IRS proceeds with formal guidance, it will request public comments. Organizations may want to consider submitting comments to the IRS.

As a reminder, the IRS reporting change 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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