

## Disclosures of Donors – Charitable Organizations

The issue of whether or not charities and nonprofits organized under Section 501(c) of the Internal Revenue Code can (and should) be legally required to disclose their donor list continues. Already a requirement for years with the IRS, for any charity that files an annual information return, the issue has gained wider attention in recent years with several states imposing donor disclosure requirements as part of mandatory state information filings.

In September of this year a three-judge panel of the United States Court of Appeals for the Ninth Circuit upheld the right of the California Attorney General (AG) to require from reporting charities a copy of their [IRS Form 990, Schedule B Schedule of Contributors](#). Earlier this year, the United States Court of Appeals for the Second Circuit, in [Citizens United v. Schneiderman](#), sided with the State of New York when they found that States' requirement that registered charities disclose their donors did not run afoul of the First Amendment.

However, about the same time these rulings came down the Internal Revenue Service issued a [press release](#) in which they announced that certain nonprofits — including trade associations and 501(c)(4) social welfare organizations — would no longer be required to disclose the names and addresses of their donors on the annual “Form 990” they file with the Service. This is particularly interesting given that most political action committees (PAC’s) are organized as social welfare organizations.

So, while charitable organizations (organized as 501(c)(3)’s) and operated for purposes designed to support the public good (and who are specifically precluded from supporting political candidates for office) are increasingly being pressured to disclose their donor lists, the new IRS policy specifically exempts 501(c)(4) social welfare organizations, 501(c)(5) labor organizations, 501(c)(6) trade associations, and lesser-known nonprofits such as social clubs, volunteer fire departments, and fraternal benefit societies from this disclosure rule.

Expect this to continue to be an issue in the months and years to come as interested parties on both sides continue to argue the case before the courts. How is this likely to affect donations to charities? Experts are divided on the question, though most predict the impact to be slight. Nevertheless, be aware when working with donors to keep them informed of everything you know and always counsel them to seek the advice and guidance of the legal and tax advisors before making any donation decisions. It is in the best interest of both your potential donors and your charity to be informed.

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<http://www.nonprofitlawblog.com/disclosures-of-donors-recent-developments/>

<http://www.thenonprofittimes.com/news-articles/nonprofits-lose-donor-confidentiality-decision/>

<https://www.insidepoliticallaw.com/2018/07/17/irs-announces-major-change-nonprofit-donor-disclosure-requirements/>

<https://www.mercurynews.com/2018/07/17/treasury-dark-money-groups-dont-need-to-disclose-donors/>

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