



**AMERICANS FOR
PROSPERITY.**

October 30, 2019

VIA REGULATIONS.GOV

U.S. Department of the Treasury
CC:PA:LPD:PR (REG-102508-16)
Room 5203, Internal Revenue Service
P.O. Box 7604, Ben Franklin Station
Washington, D.C. 20044

Re: Guidance Under Section 6033 Regarding the Reporting Requirements of Exempt Organizations, 84 Fed. Reg. 47,447 (Sept. 10, 2019) (RIN 1545-BN28)

To Whom It May Concern:

I write on behalf of Americans for Prosperity (“AFP”), a 501(c)(4) social welfare organization that drives long-term solutions to the country’s biggest problems.¹ AFP submits these comments in support of the Internal Revenue Service’s (“IRS”) proposed rulemaking for updated regulations under Section 6033 of the Internal Revenue Code (“Code”).² Specifically, AFP applauds the IRS’s proposal to provide reporting relief by eliminating the requirement that tax-exempt organizations, other than those described in Sections 501(c)(3) or 527 of the Code, disclose the names and addresses of contributors on Schedule B of Forms 990 and 990-EZ.

**The Collection of Donor Information Is Unnecessary for Tax Administration
and Raises Constitutional Concerns**

Every tax-exempt entity is required to file an annual return with the IRS, but the Code does not exhaustively define the contents of that return. Congress has set out the bare minimum that *every* exempt organization must report—namely, “gross income, receipts, and disbursements,” and “such other information . . . as the Secretary” may “prescribe” for the purposes of tax administration.³ But Congress expressly required more comprehensive reporting only for charitable entities organized under Section 501(c)(3), including disclosure of the “total . . . contributions and gifts received . . . during the year, and the names and addresses of all substantial contributors.”⁴

To the extent the IRS has imposed additional reporting obligations on entities other than those organized under Section 501(c)(3), it would violate fundamental principles of statutory interpretation, as well as the overall context of Section 6033, to restrict the IRS’s authority to remove those disclosure burdens.⁵ At a minimum, the structure and content of Section 6033 suggests Congress anticipated

¹ See *About*, AMERICANS FOR PROSPERITY, www.americansforprosperity.org/about (last visited Oct. 30, 2019).

² Internal Revenue Serv., Guidance Under Section 6033 Regarding the Reporting Requirements of Exempt Organizations, 84 Fed. Reg. 47,447 (Sept. 10, 2019) (to be codified at 26 C.F.R. pt. 1).

³ 26 U.S.C. § 6033(a)(1); see generally 26 C.F.R. § 1.6033-2.

⁴ 26 U.S.C. § 6033(b)(5).

⁵ Cf. *Nat’l Labor Relations Bd. v. SW Gen., Inc.*, 137 S. Ct. 929, 940 (2017).

individual donor information to be essential only for the oversight of a particular subset of exempt entities.⁶ Insofar as the IRS has authority to impose those requirements on other exempt groups, it remains within its discretion to return to something less than the extensive reporting requirements for 501(c)(3) entities, as required by the Code's plain language. It is therefore indisputable that the IRS has legal authority to promulgate the reporting relief found in the proposed rule.⁷

There are also compelling policy reasons to adopt the proposed rule. As the IRS has explained, the individual donor information reported on Schedule B imposes compliance costs on the tax-exempt entities that must prepare the filing⁸ and diverts valuable IRS resources which must be spent redacting the Schedule B before it is released for public inspection.⁹ At the same time, the information is rarely necessary for tax administration.¹⁰ If the proposed rule is finalized, exempt organizations will still be required to *retain* this information and the IRS will have authority to review that information *as needed* during formal examinations.¹¹ Exempt organizations also will still be required to file Schedule L, which identifies transactions with interested persons, including substantial contributors, and should provide enough information for the IRS to identify possible instances of private benefit or inurement.

Contrary to what some commenters have suggested, the elimination of the Schedule B requirement will not impede *state-level* tax administration. Montana Governor Steve Bullock, for example, argues that the proposed rule does a “disservice to the states” because it will deprive “state tax and charities regulators” of “access [to] substantial contributor information.”¹² To be sure, federal law does allow state revenue officials to access returns or return information, and the proposed rule could remove *some* information from the potential reach of those officials.¹³ But the states have even *less* need for donor information, and have even *more* risk of inadvertent or intentional disclosure.¹⁴ The elimination of an avenue in federal law for states to maneuver around constitutional and practical objections is not a persuasive argument against the proposed rule.

⁶ See *infra* note 47 and accompanying text.

⁷ 26 U.S.C. § 6033(a)(3)(B) (“The Secretary may relieve any organization [with some exceptions] from filing . . . a return where he determines that such filing is not necessary to the efficient administration of the internal revenue laws.”). The recent invalidation of IRS Revenue Procedure 2018-38 did not implicate the agency’s underlying regulatory authority but only addressed the failure to properly categorize the Revenue Procedure as a legislative rule subject to the Administrative Procedure Act’s notice-and-comment requirements. See *Bullock v. Internal Revenue Serv.*, No. 18-103, 2019 WL 3423485, at *10 (D. Mont. July 30, 2019).

⁸ See 84 Fed. Reg. at 47,451

⁹ See 26 U.S.C. § 6104(b); see also 26 C.F.R. § 301.6104(b)-1(b)(1)–(2).

¹⁰ See 84 Fed. Reg. at 47,451.

¹¹ See *generally* 26 U.S.C. ch. 78, subch. A. As the IRS indicated in the proposed rule, “tax-exempt organizations are still required to report the amounts of contributions from each substantial contributor . . . as well as maintain the names and addresses of substantial contributors should the IRS need this information on a case-by-case basis.” 84 Fed. Reg. at 47,452. The proposed rule would *not* obviate ongoing recording-keeping obligations.

¹² Letter from the Hon. Steve Bullock, Gov. of Montana, to the Hon. Charles P. Rettig, Comm’r of the Internal Revenue Serv. (Oct. 7, 2019) (IRS-2019-0039-0020), *available at* <http://bit.ly/2oLZQtc>.

¹³ See *generally* 26 U.S.C. § 6103(d)(1), (2); *cf.* 84 Fed. Reg. at 47,452 nn.4 &5. Federal law does not allow uniform state access to returns or return information for purposes of regulating charitable solicitation or charitable assets. See 26 U.S.C. § 6104(c)(1), (3).

¹⁴ See *infra* notes 34, 48–51 and accompanying text (discussing unauthorized disclosure of donor information by California).

The constitutional objections to states acquiring donor information are at the heart of three recent or ongoing lawsuits, all of which are instructive here. The first—*Citizens Union of the City of New York v. Attorney General of the State of New York*—concerns a series of “ethics” reforms passed in New York in 2016.¹⁵ Those changes included new reporting obligations regarding political speech and communication.¹⁶ Among other things, New York sought to require any 501(c)(3) organization that makes an in-kind donation in excess of \$2,500 to a 501(c)(4) entity engaged in lobbying activity to file a funding disclosure report. That report, in turn, would identify all donors to the 501(c)(3) who contributed more than \$2,500. A similar reporting requirement would have applied to any 501(c)(4) organization expending more than \$10,000 in a calendar year on certain “covered communications.”¹⁷ These entities would have been compelled to disclose the identity of *any* donor who contributed more than \$1,000, so long as that contribution was used to support a “covered communication.”

Judge Denise Cote of the United States District Court for the Southern District of New York struck down the reporting requirements for both 501(c)(3) and 501(c)(4) groups as facially unconstitutional. With respect to 501(c)(3) reporting, the court explained that New York could not establish a substantial relation between the disclosure of donor identities and “any important governmental interest,” a necessary prerequisite for regulating political speech.¹⁸ The court further explained that no law had ever been upheld for the purposes of policing “tangential and indirect support of political advocacy,”¹⁹ let alone improper “coordination among tax-exempt organizations.”²⁰ And as far as 501(c)(4) reporting was concerned, the court found that it “swe[pt] far more broadly than any disclosure law that has survived judicial scrutiny.”²¹ In other words, New York could not compel the disclosure of donor information from 501(c)(4) organizations primarily engaged in “pure issue advocacy.”²²

The second case—*Americans for Prosperity v. Grewal*—highlights the danger of donor disclosure “chilling” the exercise of free speech and association, both of which are constitutionally guaranteed by the First Amendment. Earlier this year, AFP filed a lawsuit to block a New Jersey law that would effectively require disclosure of donor information for all contributions of more than \$10,000.²³ The American Civil Liberties Union and its New Jersey chapter have also filed a lawsuit challenging this law.²⁴ The law imposed these disclosure requirements on “independent expenditure committees,” a

¹⁵ No. 16-9592, 2019 WL 4748054 (S.D.N.Y. Sept. 30, 2019).

¹⁶ N.Y. EXEC. LAW §§ 172-e(2), 172-f.

¹⁷ The law defined a “covered communication” as any communication made to at least 500 members of the general public that advocates for or against an elected official or the position of an official or government entity about the outcome of actual or potential legislation, regulation, or any other type of government decision. *See id.* § 172-f(1)(b).

¹⁸ *Citizens Union*, 2019 WL 4748054 at *20–21.

¹⁹ *Id.* at *21.

²⁰ *Id.* (“This information goal does not justify the burden on First Amendment rights The disclosure of the identity of a 501(c)(3) donor makes a poor fit with this information interest.”). The court rejected New York’s argument that the Attorney General could issue an “exemption from disclosure upon a showing that [it] may cause harassment” because the availability of an exemption would not “remedy the poor fit between the statute and the identified government purpose,” and it would be “cold comfort” to potential donors to groups denied an exemption in future years. *Id.* at *22.

²¹ *Id.* at *23.

²² *Id.* at *23–24.

²³ *See Ams. for Prosperity v. Grewal*, No. 19-14228, 2019 WL 4855853, at *2 (D.N.J. Oct. 2, 2019).

²⁴ *See Compl., Am. Civil Liberties Union of N.J. v. Grewal*, No. 19-17807 (D.N.J. filed Sept. 10, 2019); *see generally* Matt Reynolds, *ACLU Sues to Block New Jersey Donor Disclosure Law*, COURTHOUSE NEWS SERV. (Sept. 10, 2019), <http://bit.ly/2MRw6wf>.

novel term defined to include 501(c)(4) and 527 organizations engaged in pure issue advocacy or the dissemination of factual information about legislation.²⁵

Although the lawsuit is still pending, a federal judge granted AFP's request for a preliminary injunction, thus blocking the law's implementation on constitutional grounds. The court was skeptical that disclosure of donor information would have any substantial relation to a "sufficiently important government interest."²⁶ In addition to the facial deficiency, the court expressed an openness to an as-applied challenge to the law as well because the disclosure of donor information would "chill" free speech and association:

In a climate marked by so-called cancel or call-out culture that has resulted in people losing employment, being ejected or driven out of restaurants while eating their meals; and where the Internet removes any geographic barriers to cyber harassment of others, in addition to AFP's list of threats already experienced against those AFP stakeholders whose identities have become known, a "reasonable probability" standard strikes the Court as less burdensome as Defendants maintain.²⁷

Because the court concluded that there was a reasonable probability that the law was facially unconstitutional, however, it did not need to decide the merits of AFP's as-applied challenge.²⁸ Even so, the Court's opinion made clear the gravity and validity of concerns surrounding possible disclosure of donor information.

Finally, in *Americans for Prosperity Foundation v. Becerra*, a 501(c)(3) organization affiliated with AFP challenged California's novel policy, initiated by the Attorney General, that required charities to annually submit a copy of their Form 990 Schedule B to the state.²⁹ No change in California law precipitated this demand. Rather this new policy was invented through "deficiency letters" and the Attorney General's threat to revoke AFP Foundation's state-tax exemption and charitable-solicitation registration unless it complied.³⁰

Following a bench trial, a federal judge issued a permanent injunction to prevent California from demanding a copy of the Schedule B.³¹ The court found that the state did not need the Schedule

²⁵ See *Grewal*, 2019 WL 4855853, at *1.

²⁶ *Id.* at *17.

²⁷ *Id.* at *20.

²⁸ *Id.* Admittedly, the New Jersey law would have made donor information public, in contrast to other states' efforts to obtain the Schedule B with a promise of confidentiality. The danger of inadvertent disclosure and threat of reprisal or harassment, however, is still present.

²⁹ See generally Compl., *Ams. for Prosperity Found. v. Harris*, No. 14-09448 (C.D. Cal. filed Dec. 9, 2014) (on appeal *sub nom. Ams. for Prosperity Found. v. Becerra*).

³⁰ AFP also received a "deficiency letter," which requested that an unredacted Schedule B be filed with the California Attorney General's Registry of Charitable Trusts. But this letter did not include the same threat of revocation of state-tax exemption that was sent to AFP Foundation. This may impliedly suggest that California's policy reflects the IRS's judgment in the proposed rule that donor information is less important for the regulation of 501(c)(4) organizations.

³¹ See *Ams. for Prosperity Found. v. Harris*, 182 F. Supp. 3d 1049 (C.D. Cal. 2016), *rev'd sub nom. Ams. for Prosperity Found. v. Becerra*, 903 F.3d 1000 (9th Cir. 2018), *petition for cert. filed*, No. 19-251 (filed Aug. 26, 2019).

B to conduct its day-to-day business, and witnesses for the state testified as much.³² The court further found that there was “ample evidence establishing that AFP [Foundation], its employees, supporters and donors [would] face public threats, harassment, intimidation, and retaliation once their support for and affiliation with the organization [became] publicly known.”³³ Shockingly, the court described how California had failed to establish its ability to keep individual donor information nonpublic: “As made abundantly clear during trial, the Attorney General has systematically failed to maintain the confidentiality of Schedule B forms.”³⁴

The Ninth Circuit acknowledged that the state had failed to keep that information confidential.³⁵ Nevertheless, the Circuit reversed the district court, allowing the California Attorney General to mandate its own access to a copy of the Schedule B.³⁶ But the story does not end there. In a stinging dissent from the denial of rehearing *en banc*, several circuit judges emphasized that the Ninth Circuit had failed to provide “robust protection of First Amendment free association rights” when they were most “desperately needed” and “made crucial factual and legal errors.”³⁷ As Judge Ikuta opined, “[t]he facts of this case make clear that [AFP] Foundation is entitled to First Amendment protection . . . and that California’s disclosure requirement cannot be constitutionally applied[.]”³⁸ AFP Foundation filed a petition for writ of certiorari with the Supreme Court in August 2019,³⁹ and eighty-nine *amici* from across the political and philosophical spectrum filed twenty-two separate briefs in support urging the Supreme Court to review and overturn the Ninth Circuit’s decision. That petition for certiorari remains pending.

The factual record established by these cases is that individual donor information detailed on Schedule B is unnecessary for state-law purposes.⁴⁰ Attempts by states—including New York, New Jersey, and California—to force disclosure violates the First Amendment and directly impacts groups like AFP.⁴¹ The IRS should pay little heed to fact that the same information will no longer be available

³² *Id.* at 1053–55.

³³ *Id.* at 1055–56.

³⁴ *Id.* at 1056–57.

³⁵ *Id.* at 1018 (“We agree that, in the past, the Attorney General’s office has not maintained Schedule B information as securely as it should have, and we agree with the plaintiffs that this history raises a serious concern.”).

³⁶ See generally *Ams. for Prosperity Found. v. Becerra*, 903 F.3d 1000 (9th Cir. 2018).

³⁷ *Ams. for Prosperity Found. v. Becerra*, 919 F.3d 1177, 1178, 1184 (9th Cir. 2019) (Ikuta, J., *et al.*, dissenting).

³⁸ *Id.* at 1182.

³⁹ Br. of Pet’r for Writ of Cert., *Ams. for Prosperity Found. v. Becerra*, No. 19-251 (U.S. filed Aug. 26, 2019), available at <http://bit.ly/2MwxC75>.

⁴⁰ In support of AFP Foundation’s petition for writ of certiorari, a coalition of fourteen states explained that upfront disclosure of donor information at the state level was not substantially related to any legitimate state government interest. See generally Amicus Br. of State of Arizona *et al.*, *Ams. for Prosperity Found. v. Becerra*, No. 19-251 (U.S. filed Sept. 25, 2019). Specifically, the states argued that “[t]he blanket and preemptive disclosure of significant donors is not appropriately correlated to valid law enforcement interests.” *Id.* at 6. “[B]esides California, only two other States—Hawaii and New York—require disclosure of the unredacted Schedule Bs,” while the remaining “47 States and the District of Columbia [do] not require annual submission[.]” *Id.* Eleven states require *no* registration to solicit charitable donations. Yet, across the country, states still effectively administer tax and charities laws.

⁴¹ A fourth lawsuit, filed by the Illinois Opportunity Project against the Governor of Montana, raises similar constitutional concerns vis-à-vis a state Executive Order that would require bidders on non-incident state contracts with any state agency to disclose their contributions to organizations that engage in issue advocacy within certain proximity of an election. See Compl., *Ill. Opportunity Project v. Bullock*, No. 19-0056 (D. Mont. Filed Aug. 27, 2019).

for disclosure under Sections 6103 and 6104. That the IRS itself views the Schedule B as unnecessary for most federal purposes only buttresses the arguments for finalizing the proposed rule.

**The Threat of Inadvertent or Improper Disclosure Outweighs
Any Minimal Value in Maintaining the Reporting Requirement**

AFP agrees that the proposed rule will decrease the likelihood of inadvertent or improper disclosure of confidential information.⁴² As the IRS notes, it “has experienced incidents of inadvertent disclosure By reducing the number of organizations providing the names and addresses of contributors on Schedule B, the potential for inadvertent disclosure of names and addresses can be decreased further.”⁴³

In the recent past there has been no shortage of cases where confidential tax return information—including personally identifying details about contributors to exempt organizations—found its way out of the IRS and into the public domain.⁴⁴ In addition to major breaches, almost every year the Treasury Inspector General for Tax Administration (“TIGTA”) uncovers cases of inadvertent disclosure in routine situations such as administration of the Freedom of Information Act.⁴⁵ Caseworkers may fail to redact confidential information and increase the likelihood of identity theft and other harm. Recently, TIGTA identified serious deficiencies in the IRS’s inventory of systems containing or using personally identifiable information. The watchdog found that breach safeguards and real-time monitoring have yet to be implemented. And it revealed that many IRS employees have not taken mandatory privacy awareness training.⁴⁶ Unsurprisingly, Congress has considered eliminating collection of donor information altogether, even for 501(c)(3) groups.⁴⁷

Inadvertent disclosure of donor information also is a problem at the state level. In California, the Attorney General’s office “has systematically failed to maintain the confidentiality of Schedule B forms.”⁴⁸ As AFP Foundation successfully demonstrated at trial, “over 1,400 publically [*sic*] available Schedule Bs” were once available on the Attorney General’s website.⁴⁹ California even admitted to

⁴² 84 Fed. Reg. at 47,452 (“[T]he requirement to report the names and addresses of substantial contributors poses a risk of inadvertent disclosure of information that is not open to public inspection because [it] . . . generally must be redacted from an otherwise disclosable information return.”).

⁴³ *Id.*

⁴⁴ *See, e.g.*, Mackenzie Weinger, *IRS pays \$50k in confidentiality suit*, POLITICO (June 24, 2014), <https://politi.co/2IBa9QQ> (“The IRS will pay the National Organization for Marriage \$50,000 to settle a lawsuit over claims the agency improperly disclosed confidential tax information The lawsuit stemmed from information an IRS worker sent to an individual who identified himself as a member of the media who requested it in the midst of the 2012 presidential campaign[.]”).

⁴⁵ *See, e.g.*, TREASURY INSPECTOR GEN. FOR TAX ADMIN., FISCAL YEAR 2018 STATUTORY REVIEW OF DENIALS OF FREEDOM OF INFORMATION ACT AND INTERNAL REVENUE CODE SECTION 6103 REQUESTS at 6–7 (Report No. 2018-10-058) (Sept. 2018), *available at* <http://bit.ly/33kCT8i>.

⁴⁶ *See generally* TREASURY INSPECTOR GEN. FOR TAX ADMIN., SOME COMPONENTS OF THE PRIVACY PROGRAM ARE EFFECTIVE; HOWEVER, IMPROVEMENTS ARE NEEDED (Report. No. 2019-20-062) (Sept. 2019), *available at* <http://bit.ly/35hIAWB>.

⁴⁷ *See, e.g.*, H.R. Rep. 114-612, “Preventing IRS Abuse and Protecting Free Speech Act,” 114th Cong. (June 2016), *available at* <http://bit.ly/2AWzroi>; *see generally* *The IRS’s Donor Lists*, WALL ST. J. (May 15, 2016), <https://on.wsj.com/33u2QCL>.

⁴⁸ *Harris*, 182 F. Supp. 3d at 1057.

⁴⁹ *Id.*

inadvertently posting confidential Schedule Bs of groups like Planned Parenthood.⁵⁰ “All told, AFP [Foundation] identified 1,778 confidential Schedule Bs that the Attorney General . . . posted . . . , including 38 which were discovered the day before . . . trial.”⁵¹ It is unlikely that California is an outlier. State revenue and charitable services across the country may be just as “underfunded, understaffed, and underequipped when it comes to the policy surrounding Schedule Bs” and the sensitive information they contain.

There is also the additional danger of intentional or malicious disclosure of confidential donor details by government officials who disagree with an exempt organization’s mission or a donor’s affiliation with it. For example, during the 2012 presidential election, an IRS official was alleged to have intentionally leaked the National Organization for Marriage’s (“NOM”) donor information to the Human Rights Campaign, which posted it online.⁵² That information showed that presidential candidate Mitt Romney’s PAC had contributed to NOM. NOM’s Chairman John Eastman expressed the kind of frustration that the head of any organization would feel in the same situation: “We jealously guard our donors as almost every other nonprofit does, particularly on the issues that we deal with which are so contentious that our donors, once they are identified, are harassed and intimidated and tried to be chilled away from supporting the cause that we advance. This is unacceptable conduct in our democracy.”⁵³

AFP’s views draw support and opposition from across the political spectrum, and experience has shown that its donors will face threats, harassment, and reprisals if their names are publicly disclosed.⁵⁴ Those supporters who have already become publicly known, either by choice or otherwise, have faced repercussions ranging from threats to kill or maim to boycotts, firings, and public shaming. Unsurprisingly, many donors insist that their information be kept private, and AFP zealously protects donor confidentiality to ensure the personal safety of its contributors and to safeguard their trust.

The danger of unauthorized disclosure from the mishandling of Schedule Bs—or, even worse, the intentional disclosure of the information they contain—poses as deep a threat to the constitutional freedoms and privacy of individuals as the “chilling” effects of state efforts to require submission of the same details. Improper disclosure also discourages donations, draining resources otherwise available to exempt organizations. In sum, the risk of inadvertent or improper disclosure outweighs the benefit in collecting most donor information. The proposed rule strikes the right balance.

⁵⁰ *Id.*

⁵¹ *Id.* (“The pervasive, recurring pattern of . . . disclosures—a pattern that has persisted even during this trial—is irreconcilable with the Attorney General’s assurances and contentions as to the confidentiality of Schedule Bs[.]”).

⁵² See Press Release, Human Rights Campaign, Mitt Romney Fuels NOM’s Divisive Racial Tactics (Mar. 30, 2012), available at <http://bit.ly/2ORanHJ>.

⁵³ John Parkinson, *Incredulous IRS Victims Air Grievances on Political Targeting*, ABC NEWS (June 5, 2013), <https://abcn.ws/2nEiA6D>.

⁵⁴ Other groups have faced similar threats and harassment. The ACLU, for example, has cited examples of hatred and backlash from those on the far-right. See, e.g., Compl. ¶¶ 67–78, *Am. Civil Liberties Union of N.J. v. Grenal*, No. 19-17807 (D.N.J. filed Sept. 10, 2019).

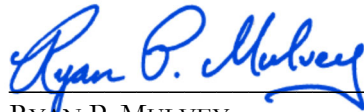
**The Proposed Rule Will Not Impact Public Access
to Information About Tax-Exempt Entities**

Section 6103 of the Code establishes a general rule of confidentiality for taxpayer information.⁵⁵ With limited exceptions,⁵⁶ the IRS may not release returns or return information, and this prohibition extends to disclosure under the Freedom of Information Act.⁵⁷ With respect to the proposed rule, the IRS has already recognized the inability of the general public to gain access to the individual donor details found on the Schedule B.⁵⁸ Although Section 6104 permits public inspection of tax-exempt organizations' annual returns, "the name or address of any contribution" must generally remain confidential.⁵⁹ The proposed rule does not upset the law as it currently stands. Eliminating the Schedule B filing requirement raises zero concerns about transparency. The public is not permitted to view individual donor information, and the public's level of access to agency records will remain unchanged. This is yet another reason to support finalization of the proposed rule.

Conclusion

For the foregoing reasons, AFP strongly supports adoption of the proposed rule. If you have any questions, please contact me by telephone at (202) 603-7698 or by e-mail at ryan.mulvey@causeofaction.org.

Sincerely,



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⁵⁵ See 26 U.S.C. § 6103(a).

⁵⁶ See *id.* § 6103(c)–(o).

⁵⁷ See 5 U.S.C. 552(b)(3); see also *Church of Scientology v. Internal Revenue Serv.*, 484 U.S. 9, 15 (1987).

⁵⁸ 84 Fed. Reg. at 47,452 (“[T]he change in annual reporting . . . of the names and addresses of substantial contributors will have no effect on information currently available to the public. Sections 6103 and 6104 prohibit the IRS from publicly disclosing the names and addresses of contributors to tax-exempt organizations (other than private foundations).”).

⁵⁹ 26 U.S.C. § 6104(b), (d)(3)(A). This provision does not protect the confidentiality of donors to private foundations or political organizations exempt under Section 527 of the Code.