

# Comments in Opposition to the Proposed Gift Substantiation Regulation

December 15, 2015



# Comments in Opposition to the Proposed Gift Substantiation Regulation

December 15, 2015

CC:PA:LPD:PR (REG-138344-13)  
Room 5203  
Internal Revenue Service  
PO Box 7604, Ben Franklin Station  
Washington, DC 20044

Dear Madam/Sir:

The undersigned nonprofit organizations write to express strong opposition to the proposed gift substantiation regulation (IRS REG-138344-13) and urge that it be withdrawn and not implemented. 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.

Each of the undersigned organizations may file separate comments regarding how the proposed regulations could affect its ability to advance mission in communities across the country. We submit this joint letter to demonstrate our universal opposition based on the following common concerns:

- **Protecting the Public Should be the Highest Priority:** Like other law enforcement agencies, the IRS has consistently warned individuals to give out their Social Security numbers only when “absolutely necessary.” A charitable nonprofit should never be asking a donor for her or his Social Security number when soliciting donations. If someone is asking in relation to a donation, that should be considered a sign of a scam or fraudulent solicitation and reported to appropriate law-enforcement authorities. The proposed donee gift form, if utilized, would require nonprofits to ask donors to give out their Social Security numbers when it is not absolutely necessary. This conflicting message from the IRS is certain to confuse the public and result in fraud.
- **Administrative Burdens and Fiduciary Duties:** Collection, storage, and reporting of Social Security numbers to the IRS is a costly additional endeavor that can impose significant risks on entities that are hacked. To protect sensitive donor information, nonprofits would have to divert resources from mission to purchase expensive data security systems that have no guarantee of protecting the public. Nonprofits that collect Social Security numbers and improperly protect the data could be subjecting themselves and their board members to lawsuits asserting a breach of fiduciary duty.
- **Disincentive for Donor Support:** In 2009, the Government Accountability Office reviewed a proposal similar to the current draft regulation and found that “[t]axpayers may reduce giving because they are reluctant to provide Social Security numbers to charities given concerns over identity theft.” This consequence of reduced support for charitable works in communities was considered unacceptable then and remains a risk that cannot be countenanced today.

Our opposition is steadfast even as we acknowledge that the proposal is voluntary at this time and IRS and Treasury openly acknowledge that if promulgated, the new form would be used, if at all, “in an extremely low percentage of cases.” The regulatory background materials also state that the IRS has received only a “few requests” to set up this alternative reporting regime and that the current “system works effectively.” If the current system works and only a few are interested, when the costs,

burdens, and harm to the public so great, then we see no legitimate reason for the IRS to proceed.

The federal government must take action to remove the confusion created by the pending rulemaking. In closing, the undersigned organizations call on the IRS and Treasury to withdraw the proposed regulations.

Respectfully submitted,

Agriculture Future of America  
Akron Community Foundation  
Alabama Association of Nonprofits  
Albertina Kerr Centers  
Alliance for Nonprofit Excellence  
Alliance for Strong Families and Communities  
Alliance for Nevada Nonprofits  
Alliance of Arizona Nonprofits  
Alpha-1 Foundation  
The ALS Association  
Alternatives, Inc.  
America's Charities  
American Alliance of Museums  
American Association of Nurse Anesthetists Foundation  
American Civil Liberties Union  
American Council on Education  
American Foundation for Suicide Prevention  
American Heart Association  
American Indian Higher Education Consortium  
American Kidney Fund  
American Public Media  
American Red Cross  
American Writers Museum  
Americans for the Arts  
Angelic Organics Learning Center  
Angry About Alzheimer's  
The Arc  
The Arcadia Institute  
Arizona Community Foundation  
Arkansas Community Foundation  
Arkansas Nonprofit Alliance  
The Arnold P. Gold Foundation  
Association for Healthcare Philanthropy  
Association of American Universities  
Association of Art Museum Directors  
Association of Baltimore Area Grantmakers  
Association of Direct Response Fundraising Counsel

Association of Fundraising Professionals  
The Association of Junior Leagues International, Inc.  
Association of Public and Land-grant Universities  
Asthma and Allergy Foundation of America  
Baltimore Community Foundation  
Barth Syndrome Foundation  
Batten Disease Support and Research Association  
BBB Wise Giving Alliance  
BoardSource  
The Butterfly Foundation  
CalNonprofits  
Camp of Dreams  
Carolina Honduras Health Foundation  
Catholic Charities USA  
Center for Non-Profits  
Children's Place Association  
Colon Cancer Alliance  
Colorado Nonprofit Association  
Communities Foundation of Texas  
Community Foundation of Grant County, Indiana, Inc.  
Community Foundation of Greater Memphis  
Community Foundation of Greater New Britain  
Community Foundation of Sarasota County  
Community Foundation of Tompkins County (Ithaca, NY)  
Community Foundation of Western North Carolina  
Community Foundation for Southeast Michigan  
Community Foundation Lorain County (Elyria, OH)  
Community Foundation Public Awareness Initiative  
Connecticut Association of Nonprofits  
Connecticut Council for Philanthropy  
COPD Foundation

Cord Blood Association  
Council for Advancement and Support of Education  
Council for Christian Colleges & Universities  
Council on Foundations  
Dance/USA  
Dayton Foundation  
Delaware Alliance for Nonprofit Advancement (DANA)  
DMA Nonprofit Federation  
Eastern Illinois Foodbank  
Emerald City Theatre  
Environmental Law & Policy Center  
Environmental Working Group  
Eugene & Agnes Meyer Foundation  
Florida Philanthropic Network  
The Foraker Group  
Forefront  
Foundation for Ichthyosis & Related Skin Types, Inc.  
Goodwill Industries International, Inc.  
Grantmakers of Western PA  
Grassroots Collaborative  
Greater Houston Community Foundation  
Greater Milwaukee Foundation  
Groundswell Educational Films  
H.O.M.E.  
Habitat for Humanity International  
Hawai`i Alliance of Nonprofit Organizations  
The Henry Ford  
Housing Resources, Inc.  
Howard Brown Health  
Huntington's Disease Society of America  
Idaho Nonprofit Center  
Illinois Collaboration on Youth  
Immune Deficiency Foundation  
Independent Sector  
Indiana Association of United Ways  
Indiana Philanthropy Alliance  
International Primate Protection League  
Jewish Association for Developmental Disabilities  
Jewish Federation of Atlantic & Cape May Counties  
Jewish Federation of Greater Los Angeles  
Jewish Federation of Metropolitan Chicago  
Jewish Federations of North America  
Jewish Federation of Somerset, Hunterdon & Warren Counties

Jewish United Fund of Metropolitan Chicago  
JNH for Mathematics and Sciences  
Junior League of Birmingham, Michigan, Inc.  
Junior League of Greater Fort Lauderdale  
Junior League of Huntsville, Inc.  
Junior League of the Lehigh Valley  
Junior League of Las Vegas  
Junior League of Los Angeles  
Junior League of Louisville  
Junior League of Northern Westchester  
Junior League of Odessa  
Junior League of the Oranges and Short Hills, New Providence Presbyterian  
Junior League of Philadelphia Inc.  
Junior League of Phoenix  
Junior League of Pittsburgh, Inc.  
Junior League of San Angelo  
Junior League of San Antonio  
Junior League of San Diego  
Junior League of Tuscaloosa  
Junior League of Wilmington  
JVM International, Inc.  
Kalamazoo Valley Habitat for Humanity  
Kentucky Nonprofit Network  
LeadingAge  
League of American Orchestras  
Louisiana Association of Nonprofit Organizations  
Lupus Foundation of America  
Lutheran Services in America  
Macon County CASA  
Maine Association of Nonprofits  
March of Dimes  
Maryland Association of Nonprofit Organizations  
McGregor Fund  
Michigan Nonprofit Association  
Midwest Pesticide Action Center  
The Milligan Foundation, project of Cultural Media Services  
Minnesota Citizens for the Arts  
Minnesota Community Foundation  
Minnesota Council of Nonprofits  
Mississippi Center for Nonprofits  
Montana Nonprofit Association  
The Myositis Association  
National Association of College and University Business Officers

National Association of Independent  
Colleges and Universities  
National Council of Nonprofits  
National Down Syndrome Society  
National Eczema Association  
National Health Council  
National Kidney Foundation  
National MS Society  
National Osteoporosis Foundation  
National Pancreas Foundation  
National Psoriasis Foundation  
The Nature Conservancy  
New Mexico Voices for Children  
New York Community Trust  
New York Council of Nonprofits  
NY Funders Alliance  
New York Society of Association  
Executives, Inc.  
Noah's Hope  
Nonprofit Association of Oregon  
Nonprofit Association of the Midlands  
Nonprofit Coordinating Committee of New  
York  
N.C. Association of Feeding America Food  
Banks  
N.C. Center for Nonprofits  
North Dakota Association of Nonprofit  
Organizations  
Ohio Association of Nonprofit  
Organizations  
The Ohio Foundation of Independent  
Colleges  
Oklahoma Center for Nonprofits  
OneStar Foundation  
OPERA America

Our Towns Habitat for Humanity  
Parkinson's Action Network  
Partnership for America's Children  
Pennsylvania Association of Nonprofit  
Organizations  
Prevent Blindness  
Prevent Blindness, Ohio Affiliate  
Prevent Cancer Foundation  
Providers' Council  
Racine Community Foundation  
Rhode Island Foundation  
Rochester Area Community Foundation  
St. Paul Foundation  
The Sinapi Foundation, Inc.  
Sjogren's Syndrome Foundation  
SC Assoc. of Nonprofit Organizations  
South Haven Community Foundation  
Texas Association of Nonprofit  
Organizations  
Third Sector New England  
Traveling Players Ensemble  
United Food Bank  
United Negro College Fund  
United Way Worldwide  
Utah Nonprofits Association  
Volunteers of America  
Washington Nonprofits  
West Virginia Nonprofit Association  
Wichita Community Foundation  
Wings Program, Inc.  
Winston-Salem Foundation  
Wisconsin Nonprofits Association  
Wounded Warrior Project, Inc.  
Wyoming Community Foundation  
YMCA of the USA