

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5074

MINORITY (202) 225-5051

<http://oversight.house.gov>

June 27, 2018

The Honorable David J. Kautter
Assistant Secretary for Tax Policy
U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

Dear Mr. Kautter:

The Internal Revenue Service (IRS) requires non-profit entities to file a “Return of Organization Exempt From Income Tax,” also known as a Form 990, to provide information on items such as gross income, receipts, and disbursements.¹ For non-profits described in section 501(c)(3) of the Internal Revenue Code, which qualify for tax-exempt status under section 501(a), this includes a list of the names and addresses of all “substantial contributors.”² Through its regulations, the IRS defines a substantial contributor as an individual contributing \$5,000 or more.³ This information is furnished through the filing of a “Schedule of Contributors,” or Schedule B.

The IRS also requires other entities that qualify for tax-exempt status under section 501(a), including organizations described in sections 501(c)(4) and 501(c)(6), to file a Schedule B disclosing information about substantial contributors.⁴ These organizations often petition the government either directly or through an affiliated subsidiary organization.

The First Amendment and the rights guaranteed therein are critical to the functioning of our system of government. The undermining of these rights, for instance by the IRS through their targeting of conservative organizations, threatens our national dialogue on important issues and may have a chilling effect on political speech. On April 17, 2018, you testified before the Subcommittees on Healthcare, Benefits, and Administrative Rules and Government Operations the IRS turned the page on the targeting scandal and safeguards to prevent future abuses are now in place.⁵

The nature of Schedule B information, however, lends itself to misuse. Such information may be utilized to target individuals due to their political beliefs, just as conservative organizations were targeted by the IRS under the previous administration. Some states require Form 990, including Schedule B information, to be submitted when non-profit organizations

¹ See generally 26 U.S.C. § 6033.

² *Id.*

³ 26 C.F.R. § 1.6033-2(a)(2)(ii)(f).

⁴ See 26 C.F.R. § 1.6033-2(a)(1).

⁵ *Continued Oversight Over the Internal Revenue Service: Hearing Before the Subcomms. on Healthcare, Benefits, and Administrative Rules and Gov't Operations of the H. Comm. on Oversight & Gov't Reform*, 115th Cong. (2018).

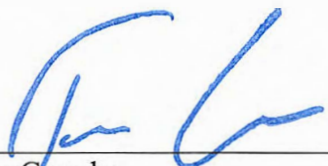
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register with the state, and states like California have previously publicly disclosed this sensitive information, revealing the names and addresses of donors.

The public disclosure of this information by the state—even inadvertently—places the individuals who contribute to non-profit organizations at risk of having their information misused by both public entities and other private individuals. Because the requirement that non-profit organizations other than those described in section 501(c)(3) submit Schedule B information to the IRS is imposed through regulation, it may be eliminated through a regulatory action. In fact, your predecessor in leading the IRS, John Koskinen, embraced such a step in public testimony more than two years ago.⁶

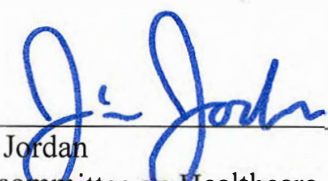
Insight into the IRS's attitudes on issues such as privacy, free speech, and the utility of Form 990 Schedule B information will be valuable to the Committee's ongoing work in overseeing the IRS. To assist the Committee, please provide a briefing on Schedule B information, the utility of collecting this information, and the IRS's plans for maintaining, modifying, or repealing the regulations requiring the submission of this information by non-profit entities.

Please contact James Lesinski of the Majority staff at (202) 225-5074 no later than July 9, 2018, to schedule the briefing or with any questions about this request. Thank you for your attention to this matter.



Trey Gowdy

Sincerely,



Jim Jordan
Subcommittee on Healthcare, Benefits,
and Administrative Rules

Mark Meadows
Subcommittee on Government Operations

cc: The Honorable Elijah E. Cummings

The Honorable Raja Krishnamoorthi
Subcommittee on Healthcare, Benefits, and Administrative Rules

The Honorable Gerald E. Connolly
Subcommittee on Government Operations

⁶ *Revisiting IRS Targeting: Progress of Agency Reforms and Congressional Options: Hearing Before the Subcomm. on Oversight, Agency Action, Federal Rights, and Federal Courts of the S. Comm. on the Judiciary, 114th Cong. (2015).*