

December 16, 2015

Internal Revenue Service
ATTN: Robert J. Basso, Senior Counsel
CC:PA:LPD:PR (REG-138344-13)
Room 5203
Internal Revenue Service, POB 7604
Ben Franklin Station
Washington, DC 20044

Re: Comments on Proposed Rules for Substantiation Requirement for Certain Contributions (IRS REG-138344-13)

Dear Mr. Basso,

On behalf of the Performing Arts Alliance, I write to express strong opposition to the gift substantiation proposed regulation (IRS REG-138344-13) and urge that it be withdrawn and not implemented. The Performing Arts Alliance (PAA), based in Washington, DC, represents America's professional nonprofit performing arts sector before Congress and key policy makers. PAA advocates for policies that enhance, foster, and recognize the contributions the performing arts make to America.

The gift substantiation proposed regulation would create public confusion and disincentives for donors to support the work of nonprofit arts organizations. We are concerned that it will create additional administrative burdens and significant new expenses. It could also lead fraudulent actors to target donors and reputable nonprofit performing arts organizations. PAA asks IRS and Treasury to consider the following:

Donors concerned about identity theft may be reluctant to give out their SSNs and TINs. It could be off-putting to donors with a history of supporting an organization to be asked for sensitive information that had not been previously required of them over the course of their relationship with the nonprofit. Potential new donors could be dissuaded from giving, and overall, donors may choose to limit their gifts to \$250 to protect their personal information. PAA member organizations receive significant support from individual giving; should this process dissuade donors, our members would see a serious drop in their resources and ability to carry out their missions.

We are concerned about potential new costs of implementing compliance/security procedures to protect donor's SSNs or TINs. Organizations may not have the practices in place to keep this information secure, and holding a large volume of it in their records could open them up to attacks from hackers. Security expenses such as new hardware, software, or training for staff would require resources that could otherwise be spent on mission-related activities. Additionally, if this process is implemented, the IRS would be sending mixed messages about when it is okay to give out a SSN or TIN. It currently advises

taxpayers [on its website](#) and on a [YouTube video](#) to only give out this information when “absolutely necessary.”

The NPRM states that these proposed regulations are intended to minimize reporting burdens on donees (pg. 55803, column 3, paragraph 2), but we believe these proposed regulations would create additional burdens. These burdens could be disproportionately larger for small performing arts organizations. PAA members already have efficient practices in place to send contemporaneous written acknowledgements to their donors and do not need a new substantiation process. The Treasury Department and the IRS acknowledge in the NPRM that “The present CWA system works effectively, with minimal burden on donors and donees, and the Treasury department and the IRS have received few requests . . . to implement a donee reporting system,” (pg. 55803, column 2, paragraph 3). Organizations should not have to incur expenses for procedures they have not identified as necessary. The proposal would create extra work for organizations by requiring them to send this information return twice: once to the IRS and again to the donor for use in preparing the donor’s federal income tax return. The CWA currently serves this purpose for the donor. Sending the information return to the donor either via hard copy or electronically again puts the donor’s private information at risk.

We ask that the IRS and Treasury consider the Performing Arts Alliance’s concerns stated here—along with their own acknowledgement of the potential administrative burdens, the effectiveness of the current CWA process, and the lack of need for a new system—and not implement IRS REG-138344-13.

Sincerely,



Mario Garcia Durham
Board Chair
Performing Arts Alliance