



July 17, 2017

VIA ELECTRONIC MAIL

Senator Orrin Hatch
Chairman, Senate Finance Committee
taxreform2017@finance.senate.gov

Re: Comments on Senate Bill No. 1343, The Charities Helping Americans Regularly Throughout the Year Act of 2017

Dear Senator Hatch:

I write on behalf of the National Association of State Charity Officials (“NASCO”), to urge passage of Senate Bill No.1343, the Charities Helping Americans Regularly Throughout the Year Act of 2017 (“CHARITY Act”). The CHARITY Act proposes amendment to the Internal Revenue Code to mandate electronic filing of Internal Revenue Service (“IRS”) Form 990, 990EZ and 990PF (“IRS Form 990”) and require the IRS to make Form 990 data available in machine-readable format.

NASCO is an association of agencies of the 50 states and the District of Columbia charged with oversight of charitable organizations that hold assets and those who solicit charitable contributions from the public. Through NASCO, all states work cooperatively to prevent and take action against fraud in charitable solicitations and use of charitable assets.

Forty states require charities to register and file annual financial reports with them. The vast majority of those states require submission of IRS Form 990 as a charity’s primary financial report. Currently, many of those charities file IRS Form 990 in paper form, resulting in time and expense to both the charities and the states that must process them: time and expense that would be eliminated with mandatory electronic filing and access to the raw data from the filings. In addition, those paper filings provide the states with no searchable electronic data unless their staffs engage in the costly process of entering the data manually.

On June 16, 2016, the IRS announced the release of all electronically filed IRS Form 990 data in machine-readable format. The announcement acknowledged that “Form 990 is the IRS’ primary tool for gathering information about tax-exempt organizations, educating organizations about tax law requirements and promoting compliance.”¹ However, since the Internal Revenue Code does not require electronic filing of all IRS Forms 990, approximately one-third of Form 990 filers submit paper forms.

¹ See IRS announcement posted at <https://www.irs.gov/uac/newsroom/irs-makes-electronically-filed-form-990-data-available-in-new-format>

Mandatory electronic filing will not only reduce costs to state regulators but will result in a database of all IRS Form 990 data, giving the states an important resource in the exercise of their responsibilities to protect charitable assets. In 2015, all 50 states, the District of Columbia and the Federal Trade Commission sued four scam cancer charities and the individuals who controlled them for using most of the \$187 million they had received in charitable donations over a four year period for their own personal benefit and not for charitable purposes. It took four years to develop and prepare the Cancer Fund case for filing, in large part because of the need to analyze thousands of pages of financial data collected by the states in static paper or PDF format. Preparation for the case would have taken less than a year if machine readable financial and Form 990 data had been available. Had the provisions proposed in the CHARITY Act been in effect in 2012, when the states began their investigation, the defendants' fraudulent activities would have been identified and prosecuted several years earlier.

The Cancer Fund case illustrates the critical need for efficient and quick access in machine-readable form to all Forms 990 and state registration data. NASCO, with the support of the National Association of Attorneys General, is involved in a pilot program to develop a multistate charitable registration portal. The portal will simplify filing by charities by allowing those required to register in any state, or multiple states, to do so at a single web-based portal. That registration portal will prepopulate data from electronically filed Forms 990, thus making compliance with state and federal requirements more efficient and less time-consuming for charities. Streamlining compliance with state and federal government requirements will allow charities to redirect resources from compliance activities to fulfilling charitable purpose.

For the states, having all state registration and IRS Form 990 in machine readable form will enable state officials to electronically manipulate and analyze the data to identify outliers and potential fraud proactively. By having all data in electronic form, the states will be able to conduct investigations more efficiently and intervene more quickly to stop fraudulent activity and protect charitable assets. The success of NASCO's project is dependent on electronic filing by all registrants. Enactment of the CHARITY Act will contribute greatly to that success.

NASCO has long supported mandatory electronic filing of Form 990s and making that data available in a machine-readable format. Thank you for recognizing, in the CHARITY Act, the importance of these measures in the overall landscape of tax reform.

Sincerely,

Karen Gano

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