

# KEY VOTE ALERT!

December 11, 2018

TO THE MEMBERS OF THE UNITED STATES SENATE:

The U.S. Chamber of Commerce strongly opposes S.J.Res. 64, the resolution of disapproval that would undo recent Internal Revenue Service (IRS) guidance related to disclosure of donors to tax exempt organizations because it has the potential to chill protected First Amendment activities. **The Chamber will consider including votes on this legislation in our *How They Voted* scorecard.**

The Chamber has long been a vigorous defender of free speech and robust debate for all individuals and organizations in our society. The Chamber strongly supports the IRS Rev. Proc. 2018-38 issued July 17, 2018 that ensures that organizations exempt from tax under §501(a), other than those described in §501(c)(3), need not report the names and addresses of their contributors on the Schedule B of their Forms 990 or 990-EZ.

The Constitution clearly establishes the right of individuals to associate with organizations for the “advancement of beliefs and ideas,” and this right is fundamental to our system of government. Unfortunately, special interests increasingly attempt to silence opposing opinions rather than allow them to compete in the marketplace of ideas. Identifying, harassing, and intimidating the organization’s supporters is a chief means of silencing that organization’s speech.

Congress correctly took important steps to protect sensitive donor information from public disclosure. For example, it imposed severe felony penalties, including loss of employment and up to five years imprisonment, for IRS and government employees who disclose such information to an unauthorized party. However, Congress did not anticipate an increasing threat to the speech rights of tax-exempt organizations – the inappropriate handling of taxpayer information by state government officials.

Under the guise of charitable statutes, some state officials have begun to require that tax-exempt organizations submit an unredacted copy of Schedule B to receive or maintain their state registrations. Although these officials purport that they will only use the information for internal purposes and will not publicly disclose it, experience has shown that Schedule B information provided to the states is not secure.

For example, recent litigation revealed that one state inadvertently published more than 1,700 confidential Schedule Bs on its website. As the judge in the case correctly noted, “Once a confidential Schedule B has been publically disseminated via the Internet, there is no way to meaningfully restore confidentiality.” The judge also found that the organizations in that case “have demonstrated that the Schedule B disclosure requirement places donors in fear of exercising their First Amendment right.”

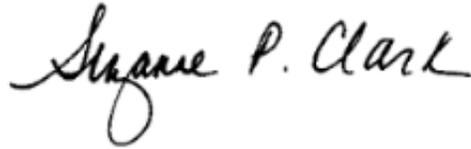


U.S. CHAMBER OF COMMERCE  
Congressional & Public Affairs  
1615 H Street, NW  
Washington, DC 20062

202-463-5600

It is now abundantly clear that an organization's list of donors has the potential to be misused and to chill protected First Amendment activity.

Sincerely,

A handwritten signature in black ink that reads "Suzanne P. Clark". The signature is written in a cursive style with a large, looping initial 'S'.

Suzanne P. Clark  
Senior Executive Vice President  
U.S. Chamber of Commerce