Congress of the United States
Washington, DC 20515

December 4, 2015

The Honorable Hal Rogers
Chairman
Committee on Appropriations
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Nita Lowey
Ranking Member
Committee on Appropriations
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Rogers and Ranking Member Lowey,

As you work to finalize Fiscal Year 2016 appropriations legislation, we write to request that you include language to prohibit any funds for the Internal Revenue Service (IRS) from being used to promulgate, finalize, or implement any rule that would permit or require 501(c)(3) nonprofit organizations to collect the Social Security numbers (SSNs) of donors.

On September 17, 2015, the IRS proposed such a rulemaking entitled "Substantiation Requirement for Certain Contributions," 80 Fed. Reg. 55802 (Sept. 17, 2015) (amending 26 CFR § 1.170A-13), which is scheduled to close for comment on December 11th. Pursuant to this proposal, the IRS would give 501(c)(3) nonprofit organizations, including charities, religious groups, and educational foundations, the option of collecting the name, address, and SSNs of donors who contribute more than $250. These organizations then would be required to aggregate this personal information and turn it over to the IRS by February 28th of the following year.

To be sure, any effort to streamline our tax code and incentivize charitable giving is noble in purpose. But this proposed rule (and any other rule that is substantially similar) also carries with it significant risks. Specifically, as the IRS's proposed rulemaking itself notes, the reporting regime invites a very real risk for hacking and identity theft because participating nonprofit organizations will, for the first time ever, be collecting the SSNs of donors and storing that information for some time. This danger undoubtedly will force some nonprofits to divert scarce funding away from their core missions so it can be used to better protect this personal information. Worse, the prospect may also frighten potential donors from giving money in the first place.

These concerns are further amplified by the IRS's dismal track record in securing and using sensitive personal taxpayer information. Earlier this year, for instance, the IRS acknowledged that its system had been breached and some 330,000 accounts had been compromised. The agency has also been the subject of multiple investigations – by Congress, the Office of the Inspector General, and the Department of Justice – into improper targeting of organizations based on political beliefs.

It comes as no surprise, then, that the National Council of Nonprofits, which represents more than 25,000 nonprofit organizations across the country, has strongly opposed the proposed reporting regime, stating that it would be "inappropriate because the process could impose significant costs and burdens on nonprofit organizations, would create public confusion and disincentives for donors to support the work of nonprofits, and could lead fraudulent actors to increase targeting donors and reputable nonprofit organizations." In the past, the non-partisan Government Accountability Office has expressed similar concerns as well.

For all these reasons, we strongly believe that it would be improper and unwise to permit the IRS to spend any additional taxpayer money promulgating, finalizing, or implementing this proposed rule or one like it. We therefore ask that you include language to that effect in any year-end funding bill.

Thank you for your consideration of this request.

Sincerely,

Keith Rothfus
Member of Congress

Paul Gosar
Member of Congress

Glenn Grothman
Member of Congress

Ryan Zinke
Member of Congress

David Schweikert
Member of Congress

Glenn 'GT' Thompson
Member of Congress

Jeff Miller
Member of Congress

David Rouzer
Member of Congress

Bill Huizenga
Member of Congress

Tom Cole
Member of Congress

Mike Kelly
Member of Congress

Robert Pittenger
Member of Congress

Austin Scott
Member of Congress

Trent Franks
Member of Congress

Darrell Issa
Member of Congress

Louie Gohmert
Member of Congress

Dave Brat
Member of Congress