



January 17, 2014

The Honorable Max Baucus
Chairman
Senate Committee on Finance
219 Dirksen Senate Building
Washington, DC 20510

Re: Tax Administration Reform draft provision on mandatory 990 e-filing for tax-exempt organizations

Dear Chairman Baucus:

The Council on Foundations appreciates the opportunity to comment on your tax reform discussion drafts. In particular, we wish to address the provision in the Tax Administration Reform draft that would require all tax-exempt organizations obligated to file Form 990s with the Internal Revenue Service (IRS) to file these forms electronically.

The Council on Foundations (“Council”) represents over 1,700 independent, operating, community, public and company-sponsored foundations and corporate giving programs in the United States and abroad. As a national voice for philanthropy, our mission is to provide the opportunity, leadership, and tools needed by philanthropic organizations to expand, enhance, and sustain their ability to advance the common good. We are committed to working closely with members of Congress and their staff to help create a policy environment in which philanthropy can grow and thrive.

We appreciate your efforts to ease tax filing burdens for nonprofits and increase the transparency of nonprofit data. We recognize that 990 e-filing has tremendous value and appeal for many nonprofit organizations. Electronic filing could create more readily available, user-friendly data about the nonprofit sector and allow policymakers, the public, and nonprofit leaders to better compare nonprofit organizations. It could also have positive practical consequences—it could help improve the accuracy and timeliness of 990s and reduce the possibility of fraud.

Yet, as we have regularly raised the idea of mandatory e-filing with our member organizations throughout the country, there are a few recurring concerns they express that we believe merit your consideration:

- **Mandatory e-filing may be a disproportionate burden for medium and smaller-sized organizations.** Small and medium-sized nonprofit organizations may struggle to comply with an e-filing requirement. According to the Aspen Institute’s Program on Philanthropy and Social Innovation¹, only 20 to 30 percent of all nonprofit organizations that have the option to electronically file do so. In 2010, only about 16 percent of organizations filing Form 990-EZs—a

¹ Beth Simone Noveck & Daniel L. Goroff. Aspen Institute Program on Philanthropy and Social Innovation. [*Information for Impact: Liberating Nonprofit Sector Data*](#). 2nd Edition, 2013.


less burdensome 990 form for smaller nonprofits—filed electronically. This suggests that while e-filing may be more efficient for those organizations with the resources to do it, many small organizations with less than \$500,000 in total assets and few, if any, full-time staff, still rely heavily on paper filing. In these cases, a delay in the effective date for this provision or the option to request a hardship waiver may not be adequate to allow them to comply with an e-filing requirement.

- **Private foundations must file attachment information that may be difficult to file electronically.** According to Aspen Institute data, only about 11 percent of private foundations filed electronically in 2010. While this percentage was expected to increase to 26 percent in 2012, it still falls far short of a majority. The Form 990-PF that private foundations must file includes exhaustive descriptions of capital gains or losses on the foundation’s investment income. To illustrate, the 990-PF form itself consists of 13 pages with 17 different parts and 900 fields, and currently, many of the schedules that private foundations must attach are not easily filed electronically. It will be difficult for many private foundations to transcribe much of this data electronically.
- **The proposal requires the IRS to make 990 information machine-readable for public extraction and interpretation, but does not specify uses for the data.** We recognize that there may be value in providing open access to nonprofit data. However, we urge you to consider whether the utility of the information justifies significant compliance costs—particularly for those organizations with the fewest resources. We encourage a thoughtful discussion about potential uses for 990 data to allow for an informed cost-benefit assessment of whether the added burden on many nonprofits is warranted.

We believe that these issues need further exploration before you proceed with mandatory e-filing for all nonprofit organizations. As the discussion advances, we urge you and your colleagues to consider an appropriate phase-in period, especially for organizations that may have a more difficult time transitioning to this new protocol. We also encourage discussion related to new guidance and tools that might be developed in the field to assist smaller organizations, much like the user-friendly tools that have been developed for individual taxpayers.

Thank you again for this opportunity to comment, and for your leadership in reforming our tax code. The Council strongly supports the Chairman’s efforts, and would be happy to serve as a resource for the Finance Committee as you consider tax reforms that impact nonprofit organizations.

Respectfully,



Sue Santa
Senior Vice President
Public Policy & Legal Affairs
Council on Foundations
2121 Crystal Drive, Suite 700
Arlington VA 22202
(703) 879-0715
sue_santa@cof.org