December 16, 2015

Robert J. Basso, Esq.

Senior Counsel (IRS/TREAS)

CC:PA:LPD:PR (REG-138344-13)

Room 5203

Internal Revenue Service, POB 7604

Ben Franklin Station

Washington, DC 20044

**Re: Comments on Proposed Rulemaking Regarding Substantiation Requirement for Certain Contributions; Proposed Rule (September 17, 2015), RIN: 1545-BL94**

Dear Mr. Basso:

Meals on Wheels America is pleased to join other nonprofit organizations in providing comments in urging reconsideration of the Notice of Proposed Rulemaking issued by the U.S. Department of Treasury and the Internal Revenue Service (IRS) regarding the expansion of substantiation reporting for charitable contributions over $250. Meals on Wheels America is a national association comprised of over 1000 local senior nutrition providers, many of which are, like us, tax-exempt 501(c)(3) organizations which would be adversely affected if the substantiation rules were to become permanent and be required of all nonprofits. We are writing to you on their behalf as well as on our own.

While we recognize that the gift substantiation rules to replace the current contemporaneous written acknowledgement with a new filing form are at this point proposed by the IRS to be voluntary, we are concerned that this may be a first step in broader adoption, eventually leading to mandatory compliance by all nonprofit organizations. The burdens on the nonprofit sector from these proposed rules, if fully required, would be significant, not only from the retention of personal information of donors but also related to the reporting and communication requirements imposed on nonprofits to provide each donor with a copy of the report that contains his or her personal information. These reporting requirements would be in addition to other filing requirements required of charitable organizations.

Meals on Wheels America is concerned about the proposed rule for a number of reasons, including:

1. **Substantial Risks are Presented by the Collection and Storage of Taxpayer Identification Information**

A requirement that nonprofit organizations collect and store taxpayer identification and Social Security numbers (SSNs) for donors creates substantial risks for such entities, in that the organizations will need to develop processed, policies and procedures to ensure the safeguarding of such personal information. Much of the current infrastructure that we have, and that our Member programs have, would need to be substantially modified to properly protect donor information. In order to ensure adequate protection, these nonprofits may need to incur substantial costs in implementing encryption or other protection devices. And even despite best efforts that we and our Members may undertake, we know that even the most sophisticated and safeguarded systems are still being breached on a regular basis. We are concerned about the financial and human resource costs of implementing the kinds of safeguards and systems that will be necessary to protect taxpayer information, as well as our technical abilities and expertise to be able to achieve the levels of protection needed. If there is a breach of taxpayer information, the whole nonprofit sector risks the loss of trust which could have a significant adverse effect on these organizations plus potentially expose them to new liabilities for not adequately safeguarding private information.

These proposed rules also seem to run counter to other guidance provided by the IRS to urge the public from providing, and charitable organizations from reporting, sensitive taxpayer information. This is information that the nonprofit sector does not want to collect and store, and that presents significant risks to the nonprofit sector.

1. **This Proposal Could Result in Decreased Charitable Giving**

Charitable fundraising is already difficult but the imposition of new collection and reporting requirements of taxpayer information will likely have a dramatic chilling effect on future donations. Taxpayers want to limit the amount of personal taxpayer information that is reported to third parties, and for participating organizations to require this information would likely cause taxpayers to decline to donate or to donate at a level below the reporting threshold of $250. In some cases, the charitable organization is not the entity that communicates with the donors; it is often third party partners that manage giving campaigns for nonprofits so there is a further level of complexity associated with this proposal. Charities are likely to be penalized for complying with the proposed rule through a reduction in revenue as donors begin to make charitable giving decisions based on this new reporting process rather than an organization’s mission or impact.

1. **Increased Compliance Costs and Administrative Burden Divert Resources from Charitable Mission**

We believe this proposal would impose significant administrative burdens on charitable organizations. We would need to make substantial changes to our fundraising systems and in our communications to donors, not to mention the internal mechanisms, systems and processes which we would need to institute in order to protect donor information and comply with the requirements of this proposal. Further, record-keeping and communications with donors would be made more complicated. The proposed February 28 deadline for filing the new, additional form – and sharing it with donors - creates another administrative burden. It conflicts with our current best practice of providing donors with contemporaneous written acknowledgments as gifts are received. It would be an additional burden to the already stretched staff of this organization and many of our Member programs if we were required to provide this form to donors between the end of February and April 15th.

We are also concerned that the IRS may institute fines on charities for inaccurate reporting of donor information to the IRS. As charities, we rely on the accuracy of information provided taxpayers, and we should not be held accountable for erroneous information being provided to us. Otherwise, we would need to verify the donor-submitted information, causing an even greater administrative burden on these charitable organizations. Every time, new administrative compliance burdens are placed on charities, staff and resources must be re-allocated from the essential mission of such organizations and the services they provide.

1. **Concluding Comments on Why this Proposal Should Not Move Forward**

The proposed regulations seem to be the proverbial camel’s nose under the tent. Even though we understand that compliance is optional, there will be pressure to comply, and the voluntary compliance may lead to further requirements in the future. External charity watchdog organizations may identify compliance as a best practice, and over time, these kinds of best practices tend to become requirements imposed on all charitable organizations. The result has an underlying tempering effect on charities; they would want to comply so as to not run the risk of running afoul of the IRS or watchdog agencies, despite the compliance and administrative burdens discussed above. The voluntary nature of this proposal offers little relief for charities who will perceive the need to comply and remain in good graces with government regulators and others overseeing their operations.

Meals on Wheels programs across the country are already strapped for resources, and each additional burden diverts their time and energy away from providing essential services to seniors across the country. These proposed regulations will present significant challenges for many of our Members.

Further, we do not believe the benefits of this proposal outweigh the costs that will be imposed on many small and vulnerable nonprofit organizations. The current process of providing a contemporaneous written acknowledgement works effectively, and there does not appear to be a compelling need to make this change. As such, we urge the IRS to withdraw this proposal.

Thank you for your consideration of our views on this proposed rulemaking, and please let us know if you have questions on our position

Sincerely,



President and CEO