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United States Senate

COMMITTEE ON FINANCE

WASHINGTON, DC 20510-6200

OFFICE OF THE CLERK
U.S. SENATE, SENATORIAL OFFICE BUILDING

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VIA ELECTRONIC TRANSMISSION

Charitable organizations have an important role in promoting good in our society. To assist and encourage these organizations, Congress created section 501 of the Internal Revenue Code, which allows certain types of charitable organizations to be exempt from federal tax on operations related to their tax-exempt purpose. Additionally, under section 170 of the Internal Revenue Code, donors may receive a deduction for contributions made to 501(c)(3) charitable organizations. These provisions simultaneously award a financial advantage to charitable organizations and impose a burden on the tax-paying public to subsidize operations of charitable organizations.

The Internal Revenue Service, with Congress's oversight, is charged with ensuring that organizations that have been granted 501(c)(3) status are, in fact, performing work that benefits the public. The Supreme Court has stated that organizations exempt under section 501(c)(3) must "demonstrably serve and be in harmony with the public interest."¹ As the Court stated, "Charitable exemptions are justified on the basis that the exempt entity confers a public benefit – a benefit which the society or the community may not choose or be able to provide, or which supplements and advances the work of public institutions already supported by tax revenues."² This standard applies to all organizations claiming exemption under section 501(c)(3).

However, recent reports have raised the possibility that some private foundations are operating museums that offer minimal benefit to the public while enabling donors to reap substantial tax advantages.³ Such an arrangement would be inconsistent with the letter and intent of the 501(c)(3) tax exemption.

As Chairman of the Senate Committee on Finance, I have an obligation to oversee the administration of the federal tax code, including the operation of organizations that have been

¹ *Bob Jones University v. U.S.*, 461 U.S. 574 at 592.

² *Id.* at 591.

³ Writing Off the Warhol Next Door, *New York Times*, Jan. 11, 2015, BU1; Personal Art Collection or Tax-Exempt Museum? The Rules are Vague, *Nonprofit Quarterly*, Jan. 12, 2015.

granted tax-exempt status by the Internal Revenue Service. In order to form a better understanding of how private foundation museums operate, I am asking your museum, as well as a number of others, to provide the following information to the Committee:

1. Provide the Form 1023 submitted to the Internal Revenue Service when applying for tax-exempt status.
2. For the most recent five years, please provide:
 - a. The museum's normal operating schedule, including periods when the museum was open to the public.
 - b. For each year, the total number of hours that the museum was open to the public.
 - c. For each year, the total number of visitors to the museum.
 - d. The amount charged, if any, to visit the museum (included a "suggested donation").
3. If your museum is involved in partnerships or displays artwork in cooperation with other museums, please provide details of the partnership.
4. If your museum loans artwork to other museums or foundations, please describe your loan program.
5. Describe how your museum obtained the artwork displayed in your collections and exhibitions. Please identify any donor who provided more than 5% of the artwork held by the museum and state their role in overseeing the museum and/or foundation, if any (including any position as director, trustee, or otherwise overseeing operations).
6. Provide your museum's policy on accepting restricted gifts.
 - a. Has your museum ever loaned donated artwork back to the donor?
7. Describe what methods your museum uses to value donated artwork, and state whether your museum provides valuation information to donors.
8. Provide the following information about the physical location of the museum:
 - a. The legal entity that holds title to the property and museum building.
 - b. If the property or building is rented, the legal entity to which the museum pays rent.
 - c. To the best of your knowledge, whether property tax has been paid on museum property.
 - d. Whether directors, trustees, or donors have physical access to the museum while it is closed to the public, and if so, whether the museum is reimbursed for this access.
9. Please provide information about any grants awarded by your museum during the past five years.