

Redesigned Form 990: New IRS Reporting Requirements for Exempt Organizations

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Form 990 --Background

- No major revisions since 1979
- Failed to meet tax compliance & transparency needs
- Did not provide full picture of orgs.
- Three guiding principles in redesign:
 - Promote tax compliance;
 - Enhance transparency;
 - Minimize burden
- Instructions - Guiding Principals:
 - Assist orgs. in answering questions
 - Promote uniform reporting using clear instructions

Form 990—Redesign Milestones

- Discussion draft of redesigned 990 & instructions were released & revised December 2007 – over 800 public comments received.
- Final 990 & 990-EZ & instructions released December 2008.
- www.irs.gov/eo for Forms, instructions, background/overview materials.
- www.stayexempt.org for audio mini-courses.
- www.taxtalktoday.tv/index - for television program.

Form 990-Major Changes

- Form 990 is now primarily an activities report, rather than an accounting report – approx. $\frac{3}{4}$ of info. is non-financial.
- New section on governance (Part VI)
- Expanded compensation reporting (Part VII)
- New Schedule F for reporting of foreign activities & grants
- New reporting on fundraising activities (Sch. G)
- New reporting on non-cash gifts (Sch. M)
- New filing thresholds for 990 & 990-EZ filers
(See: Filing Phase-In Slides)

Form 990 – Main Features

- Similar financial reporting & expanded activities reporting
- Provides opportunity for orgs. to tell their story & emphasize their service to the community
- Longer instructions, with more examples & tools to help filers complete the Form
- Highlights section of Instructions for the Core Form & each Schedule—summary of significant changes, areas for comment

(See Handout: What's New)

Form 990--Tools

- Tools to help complete Form & reduce burden:
 - Table of contents
 - Sequencing list
 - Part IV—trigger questions for schedules
 - Compensation table
 - Glossary
 - More examples & illustrations
 - Special instructions for reporting on joint ventures, disregarded entities, & info. for affiliates in group returns

Form 990-Overview

- Core Form (11 pages) + 16 Schedules
 - Converts 2007 Form's "unstructured attachments" into 6 schedules (D, G, I, J, L, & N)
 - Separates existing parts of the Form or Schedule A into 4 separate schedules (A, C, E, & R)
 - Retains Schedule B, *Schedule of Contributors*, (essentially unchanged)
 - Requires new information reported in 5 schedules (Schedules F, H, K, M, & O)

Form 990—Transition Period

- Redesigned Form effective for 2008 tax year:
 - “2008 tax year”: begins in 2008, ends in 2008-09
 - 2007 form cannot be used for 2008 tax year, except for short years ending in 2008
- Transition period from 2008-2010:
 - Higher thresholds for 990-EZ & 990-N filing
 - Purpose: to ease reporting burden on smaller organizations

(See next 4 slides: Filing Phase-In)

<i>2007 Tax Year (Filed in 2008 or 2009)</i>	<i>Form to File</i>
Gross receipts are normally $\leq \$25,000$	990-N
Gross receipts are normally $> \$25,000$ and $< \$100,000$ and assets are $< \$250,000$	990-EZ or 990
Gross receipts are normally $\geq \$100,000$ and/or assets are $\geq \$250,000$	990

<i>2008 Tax Year (Filed in 2009 or 2010)</i>	<i>Form to File</i>
Gross receipts are normally $\leq \$25,000$	990-N
Gross receipts are normally $> \$25,000$ and $< \$1$ million and assets are $< \$2.5$ million	990-EZ or 990
Gross receipts are normally $\geq \$1$ million and/or assets are $\geq \$2.5$ million	990

<i>2009 Tax Year (Filed in 2010 or 2011)</i>	<i>Form to File</i>
Gross receipts are normally $\leq \$25,000$	990-N
Gross receipts are normally $> \$25,000$ and $< \$500,000$ and assets are $< \$1.25$ million	990-EZ or 990
Gross receipts are normally $\geq \$500,000$ and/or assets are $\geq \$1.25$ million	990

<i>2010 Tax Year and later (Filed in 2011 and later)</i>	<i>Form to File</i>
Gross receipts are normally $\leq \$50,000$	990-N
Gross receipts are normally $> \$50,000$ and $< \$200,000$ and assets are $< \$500,000$	990-EZ or 990
Gross receipts are normally $\geq \$200,000$ and/or assets are $\geq \$500,000$	990

Form 990 Part I, *Summary* - Highlights

- Summary info. reporting from other parts of Form:
 - Summary of mission or most significant activities (from Pt. III)
 - Key financial, governance & operating info.
 - Comparison of current & prior years' revenues & expenses (from Pt. VIII)
 - Investment income includes passive interest, dividends, & capital gains—not rents or royalties
 - Number of independent voting members (from Pt. IV)
 - Number of volunteers

- STATES WANT TO KNOW THIS INFO.

Form 990, Pts. II--V Highlights

- Part II, *Signature Block (now on Front page of Form 990)*
 - Must be signed by officer (Pres., VP, Sec., Treas, Tax Officer)
 - Subject to: penalties of perjury statement
- Part III, *Programs Service Accomplishments*
 - Mission statement (accomplishments, who is served)
 - Three largest program services (by expenses)
 - Leave activity codes blank
- Part IV, *Checklist of Required Schedules*
 - Contains list of all questions required to determine which schedules org. must complete
- Part V, *Statements Regarding Other IRS Filings*
 - Unrelated business gross income > \$,1,000 (990-T)
 - Number of employees reported on Form (W-3)
 - Prohibited tax shelter transactions (8886-T)

Part VI, *Governance, Management, and Disclosure* - Highlights

- Rationale: Good governance leads to increased compliance:
 - Governing body & management team (lines 1 – 11)
 - Government/management policies & practices (lines 12 – 16)
 - Public disclosure (lines 17 – 20)
- Some policies or practices asked about are not legally required by the Code ...
 - However, ALL orgs. must complete Part VI (Page 6)

Part VI, *Governance, Management, and Disclosure* - Highlights

- Definitions:
 - Governing body (usually the board of directors)
 - Voting member (line 1a) (member of governing body)
 - Independent voting member (line 1b) (3 part test)
 - Material financial benefit
 - Officer (family relationship, business relationship)
- Policies (lines 12 – 16):
 - Conflicts of interest
 - Whistleblower
 - Document retention & destruction
 - Process for determining compensation of officers

Part VI, *Governance, Management, and Disclosure* - Highlights

- Disclosure (lines 17 – 20):
 - List states with which a copy of the Form 990 is required to be filed
 - List how org. makes its Forms 990, 990-T, & Form 1023 available to the public (website; upon request, etc.)
- Report significant changes to organizational documents
- Board review of Form 990
 - Q—Was Form provided to governing body before it was filed with the IRS?
 - Describe process org. uses to review Form
- Additional space in Schedule O for explanations

Part VII, *Compensation* – Highlights

(Pages 7 - 8)

- List name, title, & compensation (from filing org. & related orgs.) of all of org's:
 - Current officers, directors, & trustees (whether compensated or not)
 - Current key employees
 - Current 5 highest compensated employees
 - Former officers, key employees, or highest compensated employees who received over \$100,000 from org. & its related orgs.
 - Former directors or trustees who received over \$10,000 from org.
 - Five highest compensated independent contractors compensated over \$100,000

Part VII, *Compensation* - Highlights

- Key employee (“KE”) (other than an officer, director, or trustee):
 - person with overall responsibilities for the org. as a whole; &
 - Person who manages or has the authority to control more than 10% of org’s overall activities, assets, income, expenses, capital expenditures, operating budget, or compensation for employees
 - Report only KEs with compensation over \$150,000
- Five-year look-back period for determining who is a “former” official or employee

Part VII, *Compensation* - Highlights

- “Other compensation” includes:
 - Non-taxable health & retirement plan benefits
 - Other types of benefits, if they exceed \$10,000 in value per year (housing allowance, company car, personal services)
 - Use compensation table to determine what types of benefits need to be reported in Part VII & on Schedule J
- Do not report nontaxable fringe benefits excludible under sections 132 & 4958 of the Code
- Management companies are reported as independent contractors
- All filers must complete Pt. VII

Part VII, *Compensation* - Highlights

- Report compensation from related orgs.
(defined in Instructions for Schedule R):
 - Parent or subsidiary
 - Brother or sister
 - Supporting or supported org.
 - Volunteer exception
- Report comp. from unrelated orgs.:
 - For services rendered to the filing org.
 - There is a “Volunteer Exception”

Schedule J, *Compensation Information - Highlights*

- Triggers for Filing:
 - Listing any **former** directors or trustees, officers, KEs, or highest compensation employees reported in Pt. VII table
 - Listing any person on Pt. VII table who received over \$150,000 in compensation during filing year
 - Listing any person on Part VII table who received compensation from an unrelated org. for services rendered to the filing org.

Schedule J, *Compensation Information* – Part I

- Report fringes or expense amounts:
 - First class travel, including upgrades that cost org. an additional amount
 - Discretionary spending account (not an accountable plan)
 - Personal services
- Substantiation of expense reimbursements
- Establishing compensation of executive director
- Report any compensation to persons listed in Pt. VII table that was contingent on:
 - revenues or net earnings of the org.
 - Revenues or net earnings of any related org.

Schedule J, *Compensation Information – Part II*

- Report detailed compensation information for:
 - Former officers, directors, trustees, & key employees listed in Part VII compensation table
 - All persons listed in Part VII compensation table with compensation of over \$150,000
 - Any persons listed in Part VII compensation table who were given compensation by an *unrelated org.* for services provided to the org.
- Report deferred compensation:
 - Report all current year employer contributions to any retirement plans
 - Includes accruals & increases in actuarial value to extent that increases exceed 120% of AFR

Schedule L, *Transactions With Interested Persons* – Parts I-II

- Part 1-Report excess benefit transactions:
 - Any transaction in which the filing org. provides an above-fair market value economic benefit to a *disqualified person* (an insider) (IRC 4958) —See Appendix for definitions
- Part II-Report loans to & from *interested persons*
 - Current or former officers, directors, trustees, KEs, or 5 highest compensated employees listed in Pt. VII
 - Do not report advances under an accountable plan or accrued but unpaid compensation owed by org.

Schedule L, *Transactions With Interested Persons* – Pts. III-IV

- Part III - Grants or assistance to *interested persons*:
 - Officer, director, trustee, KE, substantial contributor, or a related person (e.g., family, selection committee members)
 - Examples: (contracts, leases, licenses, services, etc.)
- Part IV - Transactions involving interested persons
 - Any current or former officer, director, trustee, or KE listed in Part VII
 - Business transaction may be direct or indirect
 - Report transactions that exceed the greater of \$10,000 or 1% of the org's. revenues during the tax year
 - Report all transactions with an interested person that equal, in aggregate, over \$1000, during the tax year.

Schedule R, *Related Organizations & Unrelated Partnerships* – Pts. I-IV

- Part I - Identify disregarded entities
- Parts II - IV - Identify related tax-exempt & taxable orgs.
 - Definition of related:
 - Parent/subsidiary (including partnership of which org. is one of three or fewer partners)
 - Brother/sister
 - Supporting/supported
 - In Pt. IV, report org's share of partnership's total income based on Form 1065, K-1, if available

Schedule R, *Related Organizations and Unrelated Partnerships* – Part V

- Part V Transactions with related orgs.:
 - Filing org. may aggregate transactions of the same type with a particular org.
 - \$50,000 transaction threshold per type of transaction (line item)
 - Does not apply to receipt of interest, annuities, royalties, or rent from controlled entity—report all transactions with controlled entity
 - Org. need not report transfers to or from a disregarded entity of which it is the sole member

Schedule R, *Related Organizations and Unrelated Partnerships* – Part VI

- Part VI - Transactions with unrelated orgs.:
 - Threshold: report if org. conducts more than 5% of its activities, as measured by total assets or revenues, through unrelated org.
 - Report orgs. share of end-of-year assets based on its capital interest and Form 1065, K-1
 - Exception: Do not report certain investment partnerships if ...
 - purpose of investment is production of income or appreciation of property
 - Does not include program-related investments

Schedule A, *Public Charity Status and Support* - Highlights

- Increases public support testing period from 4 to 5 years (including the current year)
- Separates sections for establishing public support under 509(a)(1) / 170(b)(1)(a)(vi) & 509(a)(2)
- Same method of accounting must be used for Schedule A as is used for the rest of Form 990
- IRS no longer issues advance rulings to organizations applying for exemption under section 501(c)(3)

Schedule C, *Political Campaign and Lobbying Activities* - Highlights

- Extends reporting of political campaign activities to orgs. not described in 501(c)(3)
- Adds question regarding transfers of funds between 501(c) & 527 orgs.
- Orgs. having an ownership interest in a joint venture taxed as a partnership that conducts political campaign or lobbying activities must report its share of such activity

Schedule D, *Supplemental Financial Statements* - Highlights

- Compiles various financial statement attachments
- Report securities, program related investments, & other assets if greater than 5% of total assets
- Report:
 - donor advised funds;
 - conservation easements;
 - escrow accounts;
 - endowment funds;
 - museums (for art collections, historical treasures, etc.)

Schedule D, *Supplemental Financial Statements* - Highlights

- Provide text of FIN 48 footnote (Accounting for Uncertainty in Income Taxes) from audited financial statement regarding liability for uncertain tax positions
 - For consolidated statements, report:
 - Entire text of footnote material pertaining to org.
 - Summary of portion of footnote pertaining to org., if FIN 48 footnote is not specific to org.
- Reconciliation with audited financial statements
 - Mandatory for orgs. with audited financial statements prepared in accordance with SFAS 116 --
 - Optional for other orgs.

Schedule F, *Statement of Activities* *Outside the U.S* -- Highlights

- Report foreign activity outside of the U.S.
- Report grants made or other assistance given to orgs. & persons outside of the U.S.
- List regions in which activity is conducted / grants are made (generally based on World Bank regions)
- List number of employee or agents in region
 - Orgs. volunteers are not treated as “agents”
- Definition of “foreign org.”
 - Includes separately organized affiliates
 - Does not include any branch office, account, or employee of filing org.

Schedule I, *Grants and Other Assistance in U.S.* -- Highlights

- Report grants or other assistance to recipients in the United States:
 - Government (for grants over \$5,000 to each grantee)
 - Orgs. (for grants over \$5,000 to each grantee)
 - Individuals (for aggregate amount over \$5,000 to all grantees)
 - Does not include grants to affiliates that are not separately organized from filing org.
 - Does not include grants made to branch offices, accounts, or employees located in U.S.

Schedule G – *Fundraising and Gaming Activities* - Highlights

- Part I --Fundraising activities
 - \$15,000 professional fundraising fees threshold
 - List 10 highest paid individuals/entities to which org. paid at least \$5,000 in fees for professional fundraising services
 - Do not report expense reimbursements paid to fundraisers in Part I; explain any reimbursement arrangements in Sch. O
- Part II --Fundraising events
 - \$15,000 threshold (fees and contributions from event)
 - Report revenues & expenses of two largest events with gross receipts over \$5,000, and from all other events in aggregate
- Part III –Gaming

Schedule M – *Non-Cash Contributions* – Highlights

- Report non-cash contributions that are both tax-deductible & non-deductible
- Threshold for reporting is \$25,000 of aggregate non-cash contributions reported in *Statement of Revenues*
- Certain transactions may be aggregated by type
 - Clothing & household goods
 - Works of art
 - Securities
 - Real estate
- Non-cash contributions do not include donated services

Form 990—Other Parts of Form & Schedules

- Part VIII, *Statement of Revenue*
- Part IX, *Statement of Functional Expenses*
- Part X, *Balance Sheet*
- Part XI, *Financial Statements and Reporting*
- Schedule B, *Schedule of Contributors*
- Schedule E, *Schools*
- Schedule H, *Hospitals*
- Schedule K, *Tax Exempt Bonds*
- Schedule N, *Liquidation, Termination, Dissolution, or Significant Disposition of Assets*
- Schedule O, *Supplemental Info.*

Resources & Comments

- <http://www.irs.gov/charities>
 - 2008 Form 990 & instructions
 - Highlights
 - Overview & Background Paper
 - On-line mini workshops in completing Form 990.

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