



One Minute Memo™

Revised IRS Form 990

The Internal Revenue Service has released a revised version of Form 990, the tax return that public charities, associations, and other tax-exempt organizations are required to file annually. Form 990-PF, the annual tax return for private foundations, is not being revised at this time.

The revised form makes major changes in the presentation of information required by old Form 990, and also adds reporting requirements in new areas, including governance and management practices. The revised form continues to offer a major public relations opportunity for organizations that use it well, but it may expose unprepared organizations to increased risk of adverse publicity and perhaps to increased risk of IRS audit.

Extensive changes have been made regarding the format and amount of compensation information required to be disclosed. For example, old Form 990 required only 501(c)(3) organizations to report compensation information for the top five highly compensated employees (other than officers and directors) and independent contractors. The revised form requires all reporting organizations to report that information.

Organizations with gross receipts of at least \$1 million or assets of at least \$2.5 million must use revised Form 990 to report calendar year 2008 (filed in 2009) and fiscal years that begin in 2008 and end in 2009. Organizations that do not meet either of those criteria may choose to file Form 990-EZ instead of revised Form 990.

Hospitals will be required to complete Schedule H of revised Form 990, which calls for extensive reporting on charity care, community building activities, debt collection practices, management company and joint ventures, and facility information. However, in order to give hospitals time to implement or modify information gathering and reporting systems, for 2008 hospitals are required to report only basic information about each type of facility owned or operated by the organization. All other Schedule H reporting is optional for 2008. All Schedule H information will be required for 2009.

The changes in Form 990 have practical and immediate implications:

- Organizations should review their policies and procedures now in light of IRS “best practices” guidance and in anticipation of revised Form 990 disclosure. Organizations that have not implemented, or do not enforce, policies and procedures to be disclosed in the revised Form 990 may wish to take action now so they can report that they follow IRS “best practices” when filing the revised Form 990.
- The revised Form 990 is a group project and will take longer to prepare. Organizations will need management, board, and legal input to respond to many of the items relating to governance and management practices. Organizations should build into their Form 990 preparation calendars the time necessary to coordinate input from multiple parties

plus, where appropriate, an opportunity for the board or board committee to review the completed form.

- Organizations may need to modify or upgrade accounting and recordkeeping practices to capture revised Form 990 information. For example, the revised Form 990 calls for detailed reporting on fundraising and contributions; endowment funds; trust and custodial arrangements; grant making; and transactions with interested persons and related organizations. Other new disclosures include: the number of volunteers (which can be estimated if there is a reasonable basis for the estimate); whether written minutes are prepared for all board and board committee meetings before the next meeting or within 60 days. Changes in program services during the year also must be summarized.

The following are among the questions and required disclosures for the revised Form 990:

- Enter the number of voting members of the governing body. Enter the number of voting members that are independent.
- Did any officer, director, trustee or key employee have a family or business relationship with any other officer, director, trustee, or key employee?
- Was a copy of the Form 990 provided to the organization's governing body before it was filed? All organizations must describe the process, if any, the organization uses to review the Form 990.
- Does the organization have a written conflict of interest policy? If yes, does the organization regularly and consistently monitor and enforce compliance with the policy? If yes, describe how this is done.

- Does the organization have a written whistleblower policy?
- Does the organization have a written document retention and destruction policy?
- Did the process for determining compensation of the following persons include a review and approval by independent persons, comparability data, and contemporaneous substantiation of the deliberation and decision: CEO, Executive Director, or top management official? Other officers or key employees of the organization? Describe the process.
- How does the organization make its Form 1023 or 1024, Form 990 and Form 990-T (501(c)(3)s only) available for public inspection? Own web site? Another's web site? Upon request?
- Describe whether (and if so, how) the organization makes its governing documents, conflict of interest policy, and financial statements available to the public.

Reporting organizations should discuss the 990 changes with their attorneys and accountants and in any event should carefully review revised Form 990 and Instructions to determine what additional information may have to be reported. More information, including a copy of revised Form 990 and Instructions, is available at <http://www.irs.gov/charities/index.html>.

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