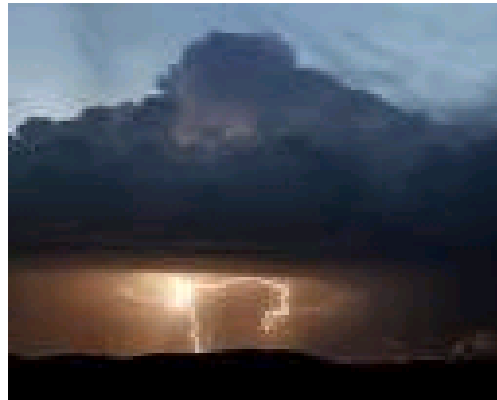


2010 Form 990: Calm After the Storm, With Some Challenges to Come

We are now approaching the third year of the redesigned Form 990 with its 14 new lettered schedules.

Organizations that were required to file a return and have not filed for three years are currently receiving notices from the IRS of their exemptions being revoked. The population of organizations recognized as exempt by the IRS will likely grow smaller as noncompliant or old and defunct organizations are removed from the IRS Master Files. Data from the initial two years on the new IRS form is slowly becoming public as returns are released for public inspection. While the IRS maybe constrained by budget concerns, more information available in databases on exempt organizations should increase focus both by the IRS and other third parties interested in exempt organizations. During 2010 the IRS has spent time fine-tuning the forms to make them clearer and to provide more elaborate instructions and examples for frequently misunderstood items.

With the end of the phase-in of the new form, thresholds initially raised in 2008 are lowering back down to require more organizations to file a regular Form 990. For tax years 2010 and later, organizations with either gross receipts of \$200,000 or more or total assets of \$500,000 or more are required to file Form 990. Smaller organizations can still use the Form 990-EZ. Important to note for 990-EZ filers: the IRS no longer allows white paper attachments, but requires the use of the Form 990 Schedule O for all supporting information filed with the return. One positive item to note is that the 990-N, e-Postcard threshold increased, allowing qualified organizations to use 990-N when receipts are normally less than \$50,000, instead of \$25,000.



The 2010 Form 990 includes certain cosmetic changes and a rearrangement of content for better readability and function. Headings of 990, Parts III, V, VI, VII, XI, and XII include new checkboxes when a response is included on Schedule O to cross reference this information back to the form. New narrative parts have been added to Schedules E, G, K, L and R to supplement responses to questions within the schedule instead of using Schedule O. Schedule O should now be used only to supplement core form responses or to include other general information not specific to one of the 14 schedules. Additionally, continuation sheets on Schedules F-1, I-1, J-1, J-2, N-1, and R-1 are eliminated, which is a welcome change. Continuations of lists are no longer found in distant locations where they have been causing some confusion. Instead, additional space for listing items now uses duplicate copies of the relevant schedules placed right after the initial pages so information is continuously presented. Subtotals are also added for each page.

Certain clarifications are provided for **Part IV, Checklist of Required Schedules**. All section 501(c)(3) filers with a section 501(h) election in effect for the tax year must file Schedule C, II-A. Section 501(c)(4), (c)(5), and (c)(6) organizations with membership dues, assessments, or similar amounts must complete Schedule C, III. Organizations with one or more hospitals must attach their audited financial statements. Transactions with a section 512(b)(13) controlled entity must complete Schedule R, Part V, line 2. There is an exception for certain transactions under \$50,000.

For Part V, Statements Regarding Other IRS Filings/Tax Compliance, IRS instructions explain how to calculate member income for purposes of the 85% Member Income Test, and include a new tip explaining when section 501(c)(12) organizations must file Form 1120. New lines are also added to require organizations that received any payments for indoor tanning services during the tax year to indicate whether they have filed a Form 720 to report such payments.

Some of the unclear areas under **Part VI, Governance, Management, and Disclosure**, have received further explanation. The IRS now reminds us that the governing board is considered to have adopted a policy only if such policy was adopted by the end of the tax year. Only business and family relationships between the organization's current (not former) directors, trustees, or key employees are required to be identified. The instructions give two new examples to clarify the meaning of "local chapters, branches, and affiliates." The IRS clarifies what many believed; that providing the board a copy of the 990 must be answered "No" if you have redacted or removed any information (such as names and addresses of contributors or compensation) or limit the copy to less than the full voting board.

A few clarifications for **Part VII, Compensation**, have been added. The checkbox in Section A, line 1a, should be checked if neither the organization nor any related organizations compensated any current officer, director, or trustee of the organization. If a related organization is related to the filing organization for only a portion of the tax year, you may choose to report compensation paid by the related organization only during the time it was related. Reportable compensation for officers and employees is clarified to include both Form W-2, box 5, and Form 1099-MISC, box 7, if applicable. You must also describe on Schedule O the average weekly hours each listed person worked for any related organization. The compensation table now clarifies reporting for Part VII and Schedule J of certain amounts deferred under qualified and nonqualified plans.

Part VIII, Revenue, instructions clarify that neither donations of services (including the value of donated advertising space or broadcast air time) nor donation of use of materials, equipment, or facilities may be reported on Form 990, even though they are included on GAAP (generally accepted accounting principles) financial statements. They also clarify the reporting of donated items sold at an auction by providing an example in the instructions.

For Part IX, Expenses, the IRS clarifies that the costs incurred to secure funding should be allocated to "program" expenditures where program services are provided to the grantor or other contracting party, but allocated to "fundraising" expenditures when services are provided to the general public which is more in line with financial reporting. The revised instructions clarify the allocation of the salaries and benefits expenses to lines 5-10 for reimbursed payroll costs when reimbursing payroll agents, common paymasters, and other third parties for compensation paid to the organization's officers, directors, trustees and employees, while payments to a third party go on 11g, other services. Also, due to the size limitation for itemizing other expenses on the "other" line, miscellaneous expenses listed on these lines that are greater than 10% of the total expenses must be further itemized on Schedule O.

There are few changes to note on Part XI, Reconciliation of Net Assets, but reconciliation from beginning to ending net assets has been added. The former Part XI, Financial Statements and Reporting questions are now included under Part XII.

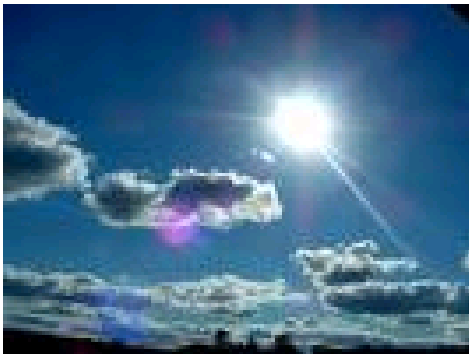
The IRS continues to have an international focus among all types of return filers. Schedule F, used to report foreign transactions, includes a Part IV which requires identification of transfers or ownership in foreign entities and operations in or related to boycotting countries, and reminds organizations of the need to file international form types 926, 3520, 5471, 8621, 8865, and 5713, if appropriate. ([Foreign bank account reporting](#) is still an emphasis with questions both in the core part of Form 990 and on the 990-T regarding foreign account holders and signers.)

Both the 2009 and 2010 Form 990 require expanded reporting under Schedule K for tax-exempt bonds to include all of the new questions. The sections include Bond Issues; Use of Proceeds; Private Business Use; and Arbitrage. Some of the information can be gathered from the organization's bond information return, Form 8038, that is filed after a bond is issued. Other information relates to activities since the bond was funded. Expanded reporting is also required for 2010 for tax-exempt hospitals on Schedule H. The Patient Protection and Affordable Care Act, effective for tax years starting after March 23, 2010, included additional requirements for tax-exempt hospitals to maintain their tax-exempt status. Due to late revisions to both the forms and systems to reflect new requirements for 501(c)(3) hospitals, the start of the filing season is delayed for certain hospitals. Tax-exempt hospital organizations may not file their 2010 Forms 990 (with Schedule H attached) before July 1, 2011.

Hospital organizations with original 2010 tax year filing due dates before August 15, 2011 will be granted a three-month automatic extension. (See related article on page 1 of the newsletter for more detailed information on this issue.)

The beginning of the third year of the new Form 990 is a good time to look back at the accomplishments of the expanded requirements and to positively note how many organizations have worked to file timely and compliant returns. Many are better understanding some of the issues that surround the industry, while more transparency for some has been and will continue to be difficult to adjust to. The IRS is expected to use some of the information to better understand the various types of organizations that make up the diverse population, to target their resources toward it, to focus exams and inquiries on the right issues and organizations, and to provide better data about exempt organizations to Congress. They will continue to rely on the public to keep watch, and also provide educational information to better assist the industry, especially the new and growing organizations. New applications for exemption continue at a steady pace, and the industry continues to grow and change with the ebb and flow of the economy. Future changes to the 990 will occur, no doubt, as the environment changes and new issues take predominance.

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