

Last month, we reviewed the structure of the "new" form 990 along with the "core form". The draft "new" form 990 was released in June by the IRS. This month we review some of the schedules. Next month, in Part III of this article series, we will review the remainder of the schedules.

As mentioned in Part I of our series regarding the "new" 990, the draft core form with related schedules seems onerous and lengthy and while it is unlikely that a taxpayer would qualify to file all 15 schedules, it is probable that: charities will be required to attach more than the current maximum of two schedules; and other exempt organizations will be filing several schedules as well. Based on IRS estimates, only 3 of the 15 schedules will be completed by more than 25% of the filing organizations, with 8 of the 15 schedules to be completed by less than 10%.

As mentioned in the previous paragraph, there are 15 schedules in the new form. Currently, there are two schedules. One schedule (A) is applicable only to 501(c)(3) charities and 501(c)(4) social welfare organizations while the other schedule (B) is applicable only to recipients of charitable contributions. Current schedule B also applies predominantly to charities.

New Schedule A

The new Schedule A is a paired down version of the existing Schedule A which pertains to public charity status as well as a variety of supplementary issues such as lobbying and transactions with related nonexempt organizations. These supplementary issues are covered in other separate schedules on the new form. In all instances, the new form 990 covers these issues in more detail than the existing form 990.

New Schedule A is a 3 page schedule which asks specific questions about supporting organizations, including the request for significant detail about the supporting and supported organizations. Supporting organizations are required to certify: that it is not controlled by "disqualified persons" (insiders as defined in the Code); that it does or does not receive contributions from these "disqualified persons".

One helpful aspect of the new Schedule A is the public support schedules. There are separate page long support schedules for both IRC §§ 509(a)(1) and 509(a)(2) organizations. The public support period on the return is lengthened to five years which makes it consistent with the initial (advance ruling period test) by the IRS. In addition, organizations which do not meet the 33 and 1/3 % safe harbor will be able to claim the facts and circumstances test. These schedules are significant improvements upon the cluttered public support schedules on the current form. In fact, this part of the new Schedule A IRS summarizes on its website is intended to replace the 5-year advance ruling process. Armed with this new information disclosure, it will be interesting to observe if the Service may actually begin to more aggressively challenge public charity status. Notwithstanding disclosures on the new schedule related to the over 10% facts and circumstances test. This schedule sports 11 pages of proposed instructions to assist filers.

New Schedule B

Schedule B which is used to report charitable contributions is the same as the existing schedule B and existing instructions.

New Schedule C

Schedule C is a 3 page schedule which focuses on political campaign and lobbying activities. This schedule could apply to noncharitable exempt organizations including 501(c)(4), (5) and (6) entities. There are queries about political campaign involvement as well as relationships with section 527 organizations. Schedule C also includes the calculations of permitted lobbying activities for charities. In addition, descriptive detail is requested regarding lobbying activities. This schedule has 18 pages of proposed instructions to assist filers.

New Schedule D

Schedule D is a 4 page schedule. Page one requests supplemental financial information. Assets not specifically detailed on the core form summary need to be detailed on schedule D. Investments need to be disclosed based on four possible categories: Land, Buildings and Equipment; Securities; Program Related; and Other (which presumably include so-called alternative investments). Non investments categories are divided between Program Related Land Building and Equipment and the catch all Other Assets. Other Assets specifically requests a disclosure about intangible assets.

Schedule D (page two) requests that each liability not detailed on lines 18 to 25 of the core form be disclosed accordingly. Significantly, any FIN 48 disclosure is to be reported on the schedule as it appears in the organization's GAAP financial statement. This means that if an organization has a significant tax position disclosure on its financial statements because of the FIN 48 standards, the IRS has this information showcased for it. The remaining two and one-half pages include disclosures about conservation easements, donor advised funds art collections, escrow accounts, endowments, and a reconciliation of book and tax items. There are 4 pages of proposed instruction to this schedule.

IRS anticipates that 100% of form 990 filers will be filling in Schedule D. It will require at a minimum the same amount of disclosure as the current form, which requested most of the same information in attachment format. There is a strong likelihood that an organization will make more detailed disclosure than in the past. This author believes that Schedule D represents a significant administrative burden on both organizations and their professional advisors/accountants. Accounting systems may need to be examined to ensure that the information required for disclosure on Schedule D is easily manageable, captured and presented in a workable format.

New Schedule E

Schedule E relates to private schools. Schedule E is very similar to the existing queries about private schools on the current Schedule A.

As you can see, most of these schedules are expansions on current disclosures. As noted last month, this form is a significant increase in information disclosed by taxpayers. The IRS is posting all public comments on its website that it has received to date and most comments relate to the "expected burden" to be placed onto the exempt organization community regarding the substantial revision to form 990.

Rest assured, increased disclosure burdens will require more time spent by both organization accountants and their professional advisors. Next month we will discuss new schedules F through R and provide closing comments regarding the overall "new and improved" draft form 990.