

In the past two months, we reviewed the structure of the "new" form 990; the "core form" and Schedules A through E. The draft "new" form 990 was released in June by the IRS. This month we will review Schedules F through M and the nonsequential Schedule R.

As previously mentioned, there are 15 schedules in the new form. Most entities will file between two and four schedules. Some complex organizations will file more schedules. Currently, charities file two schedules while most other organizations do not file any schedules. IRS officials have stated that the form should not substantially increase the time burden involved in filing. Most practitioners believe that both exempt organization accounting departments and professional preparers will have a two-fold to three-fold increase in record keeping and preparation time. Now, back to the schedules...

Schedule F is used to report foreign activities. Organizations are asked to report their activities (such as program services, grantmaking, and fundraising) on a country-by-country basis. Grantmakers must disclose grant selection procedures as well as grant monitoring processes. Grants to individuals or other organizations require separate additional disclosures.

Schedule G is comprised of questions about fundraising activities. The form requires disclosure of the types of fundraising solicitation used - e-mail, mail, phone, grants including those from government, special events and gaming. The latter two methods (special events and gaming) require additional disclosure. Organizations are also required to disclose the states that they solicit in.

Schedule H is filed by tax exempt hospitals. Schedule H attempts to test the community benefit rationale whereby many tax exempt hospitals gain their exemption. This is done by collecting a variety of healthcare specific financial information and asking about the organizational structure and ways of doing business.

Schedule I documents domestic grant procedures. Disclosure is required of all grants in excess of \$5,000 to organizations, governmental bodies and individuals. This form replaces the top of page 2, lines 22 and 23. However, the disclosure requires taxpayer ID numbers and the applicable code section relating to each grant in addition to what is currently required.

Schedule J solicits additional information about compensation. While the "core form" discloses aggregate compensation, Schedule J dissects compensation into seven possible components. Four components (base compensation, bonus and incentive, severance, and other) are breakdowns of amounts reported on forms W-2 or 1099. The remaining three components (nonqualified deferred compensation, nontaxable benefits, and nontaxable expense reimbursements) are typically not currently taxable. The form also queries about special executive compensation packages including supplemental nonqualified retirement plans and equity-based compensation. Schedule J is only one page, but the 11 pages of instructions attest to the denseness and complexity of this disclosure. The IRS avers in the draft instructions that it desires more uniform compensation disclosure.

Schedule K addresses tax exempt bond issues. Queries are made about the use of the funds and redirection of any proceeds to third parties. The schedule requires disclosure of the issuer and financial information about each issue.

Schedule L represents in essence a third compensation disclosure (after core form and schedule J). Schedule L asks for information about loans to and from trustees, directors, officers, key employees, highly compensated employees and other disqualified persons (insiders). Organizations must disclose amount of loan, interest rate and other financial details as well as the purpose of the loan.

Schedule M concerns noncash contributions including gifts of books, clothing, automobiles, real estate, collectibles, food inventory, taxidermy, art, household goods, airplanes, boats, intellectual

property, securities, conservation easements, food inventory, drug and medical supplies, to name a few. Organizations must disclose these contributions as well as affirm any property received, which must be held for at least three years.

Schedule N relates to liquidations, terminations, dissolutions and significant dispositions of assets. The schedule asks for a detailed description of such transactions.

Schedule R pertains to identification of all related entities including other controlled exempt organizations, disregarded entities, controlled partnerships (limited liability companies and the like), and controlled corporations. Control with respect to other exempt organizations rests upon a variety of corporate structure and governance measurements, such as overlapping directors, overlapping management or other similar characteristics. Partnerships and corporations are measured by more than 50% ownership along with some corporate structure variations in the case of a partnership.

The IRS has received over six hundred pages of comments on the "new 990". See <http://www.irs.gov/charities/article/0,,id=173106,00.html>. The IRS has pledged to make some changes in recent public statements. Service officials have also maintained that the changes will not be significant. The effective date for the new form is expected to remain the tax years ending December 31, 2008 and thereafter. We will keep you abreast of the latest developments on this issue.

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