

New Form 990 Changes Tax Filing Requirements for Tax-Exempt Organizations

By Julie L. Floch, CPA

Tax-exempt organizations and tax preparers who tuned into IRS' November 4, 2008 *Tax Talk Today* webcast learned the "who, what, when, where, and how" of preparing for the new Form 990.

Moderated by Les Witmer, panelists for November's program were: Eve Borenstein, exempt organizations tax attorney at Borenstein & McVeigh Law Offices; Stephen Clarke, tax law specialist, Rulings and Agreements, Exempt Organizations, IRS; Julie L. Floch, CPA, director of Not-For-Profit Services, Eisner; and Ronald J. Schultz, senior technical advisor to the commissioner, TE/GE, IRS.

Form 990 is an information return that many tax-exempt organizations file annually with the IRS. The term "information," and not "tax," is used because no tax is submitted with this form. Its purpose is purely informational. Items reported on the Form 990 include organizational

programs, activities, finances, and for 2008, governance and mission as well.

Most tax-exempt organizations other than churches are required to file the Form 990 or a related information return. But for many tax-exempts there are new alternatives such as the e-postcard—990-N—if their annual gross receipts are normally less than \$25,000. For tax year 2008, the Form 990-EZ may be filed by organizations with assets of less than \$2.5 million and annual gross receipts of less than \$1 million. Private foundations file the Form 990-PF.

All other tax-exempt organizations are required to file the standard Form 990 with the IRS.

Burden Minimized

Over the last thirty years, significant changes have occurred in the non-profit sector and the tax laws affecting them.

Through consultation with external groups and extensive public comment, the IRS redesigned Form 990 and its instructions reflecting those changes with three main principles in mind:

- Promote compliance,
- Enhance transparency, and
- Minimize burden.

Show panelist Ronald Schultz of the IRS said, "The IRS has worked very hard to minimize the burden imposed by the redesigned Form 990." To accomplish this, the IRS will increase maximum filing amounts for the Form 990-EZ during a three-year transition period to allow many smaller tax-exempt organizations to file the four-page short form rather than the full eleven-page Form 990. Because of these increased amounts, IRS expects nearly 200,000 more organizations to be eligible to file the Form 990-EZ for tax year 2008.

IRS is also attempting to minimize burden by making it easier for organizations and practitioners to navigate through the new form by making the instructions clearer, more comprehensive, and more useful.

About the Author

Julie Floch is Eisner's director of Not-For-Profit Services. She is experienced with the application of federal and state tax laws as they relate to not-for-profit entities, as well as with the requirements of federal regulations relating to clients who receive government funding. Ms. Floch recently completed a three-year appointment by IRS to its Advisory Committee on Tax Exempt and Government Entities.

In addition, IRS has added a number of tools to the Form 990 instructions to assist organizations and tax practitioners in preparing the Form 990. These tools include a checklist of required schedules, a sequencing list providing a recommended order in which to complete the form and schedules, a glossary of terms, a compensation matrix, and a variety of helpful examples and appendices.

Drafts of the form, schedules, and instructions are available now on The Tax Information for Charities and Other Non-Profits page of IRS.gov. The final version is expected to be available on IRS.gov in December.

Importance of Governance Provisions

An eleven-page core form and sixteen schedules replace the former nine-page form with its two schedules and various attachments. Some of the main elements of the new form include a one-page summary (a “snapshot” which provides some basic information on mission, activities, governance, and finances), and new or revised content in areas such as governance, foreign activities, and executive compensation reporting.

Throughout the November 4 show, a number of items were stressed, including the importance of paying close attention to the new form’s governance provisions. As Stephen Clarke said, “We believe there’s a close link between good governance and tax compliance.”

There are twenty wide-ranging questions on governance in Section VI of the redesigned form and several others sprinkled throughout the form. These questions range from conflicts of interest policies to documentation of meeting minutes to how the organization’s directors and managers review its Form 990. It is important to make sure that organizations are very comfortable with and understand those governance questions.

The panel stressed the need for tax-exempt organizations to start planning now

for the 2008 tax year 990 filings due to be filed in 2009.

The new form’s main focus is on activities, relationships with other organizations, and governance and therefore requires the involvement of not only CFOs and accountants but also the organization’s directors, executives, and program managers.

The panel encouraged the involvement of program staff, managers, and directors in preparing and reviewing their organization’s Form 990 so that the organization will be able to answer all the questions on the form. Another reason for expanding involvement is that, unlike most IRS forms, the 990 is disclosable to the public.

In light of the form’s more detailed reporting requirements, organizations will want to re-assess their internal information gathering and reporting procedures. As panelist Eve Borenstein opined, “It’s imperative for organizations and preparers of these forms to begin educating themselves on the new form, its many parts, and its key requirements. And reading the instructions is a wonderful place to start.”

Beware of State Filing Requirements

Finally, it is very important for organizations to check with their states to see what forms they require. Many states require organizations that are tax-exempt to file either the Form 990 or 990-EZ. As Clarke pointed out, “It remains to be seen whether states will accept a Form 990-EZ from an organization that formerly filed a Form 990 but is (now) exempt from doing so under our increased thresholds.”

All this information and much more is available in the show’s transcript which is posted on the Tax Talk Today website.

To learn more online on the new Form 990, visit <http://www.taxtalktoday.tv> or IRS.gov. **EA**

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