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How the IRS, IPR, and the Internet impact the business of standard setting

ANSI Legal Issues Forum 2008



Grant Thornton KING & SPALDING

The New Form 990: Increased Transparency for the Nonprofit and Its Impact on Directors

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The IRS has completely redesigned Form 990

- **The tax-exempt sector is in the spotlight!**
- Form 990 is a public document and states your case for retaining tax-exempt status; the IRS redesigned Form 990 to:
 - Enhance **transparency**
 - More **disclosure** about your use of resources
 - Promote **compliance**
 - With **all tax laws** by asking questions
- First major revision since 1979.
- New Form 990 must be filed starting with tax year 2008 (filed in 2009).



Why Form 990 is important – The IRS: Retaining tax-exempt status

Form 990 states your case for retaining tax-exempt status and demonstrates your compliance with the tax rules on an annual basis:

1. Still **organized** as a tax-exempt entity?
2. Still **operated** as a tax-exempt entity?
3. Is there a **liability** for income or excise taxes?
4. Are you in **compliance** with applicable tax laws?
5. Is Form 990 **complete and accurate**?
6. Have you started the **statute** of limitations?

→Form 990 can be a useful tool; does it support your case?

→Public Document - maintain credibility, goodwill, compliance!



Redesigned Form 990 for 2008 – Our personal observations

- Form 990 will increase enforcement efforts and enforcement efforts will be made easier
 - Increased transparency and disclosure will make it easier to **follow the money** (e.g., Part IV)
 - Compliance will improve because pointed questions will **create more awareness** of the many tax laws that apply to tax-exempt organizations (e.g., Part V)
 - The focus on governance highlights the policies that **responsible persons** should have in place to exercise their fiduciary duty
 - Many answers need to be explained and certain practices need to be described; accordingly, **much more disclosure** than before (e.g., Part VI)
 - **Internal consistency** will drive the filing of a complete and accurate return

→ Organizations are going to have to focus on Form 990 like never before.



Summary of Major Changes

- **New summary page.**
- **Core form reordered** to move organization's description of its program service accomplishments to page 2, immediately after the summary, so organization can “tell its story.”
- **New checklist of schedules** showing which schedules the filing organization must complete.
- **Increased focus on activities**, not just numbers.
- **New definitions** of insiders.
- **Entity-specific**, rather than consolidated system, approach.



Summary of Major Changes

- Revised and **expanded compensation** sections.
- Expanded reporting of **relationships with insiders** and other organizations.
- **New schedules and supplemental financial statements.**
- Increased or new **reporting thresholds** for several of the schedules.
- New section about **governance structure, policies and disclosure practices.**
- New **Schedule O** for provision of supplemental information reported elsewhere on the form. (“O” for Opportunity.)



Summary of Major Changes

- **No PDF attachments or links to website yet.**
- **Glossary** of key terms (176 definitions also included elsewhere).
- **Comprehensive instructions** for questions relating to activities conducted through disregarded entities and joint ventures, compensation, and new reporting requirements.
- Increased use of **examples**.
- **Sequencing list** to complete form in step-by-step order.
- New **compensation table**.



Revised Form 990 – Summary

Core form with supporting schedules

- **11 page core form** (consisting of 11 parts), with a summary part at the beginning
 - completed by all filers
 - **16 supplemental schedules** to provide additional detailed information
 - whether these schedules are required depends on information you provide in the core form
- Most organizations will be required to complete several of the schedules.



Core form – Part I: Summary section of key items

■ Activities and Governance

- Brief description of **mission** and most significant **activities**

- Number of the **governing body** and number of "independent" members
 - voting members and independent members are defined in the instructions

- Total number of **employees and volunteers**
 - volunteers - defined in the glossary

- Gross **and net** unrelated business income from 990-T (think about your expense allocations).*

*Form 990-T now must be made available for public inspection



Core form – Part I (continued): Summary section of financial items

- Current and prior year financial information
 - **Revenue summary**; key group totals
 - contributions, program service, investment, and other
 - **Expense summary**; key group totals
 - grants, member benefits, salaries, professional fundraising and other
 - **Net assets and fund balances**
 - total assets, liabilities, and net assets



Core form – Part II: Signature Block; always important, now on Page 1

- Signature, name and title of officer
- Signature, name and address of preparer
- Third party designee
 - allows the IRS to discuss the return with the return preparer

→ Under **penalties of perjury**... I have examined this return... to the best of my knowledge...it is true, correct, and complete...

- Substantial penalties possible



Core form – Part III: Statement of Program Service Accomplishments

1. Describe the organization's **mission**
2. Were there any significant **new program** services this year?
3. Did you **cease conducting** any significant program services or make significant changes in how you conduct any program service?
4. Provide **detailed descriptions** of the top three tax-exempt activities;
 - Section 501(c)(3) and (c)(4) organizations must also show **grants, expenses, and revenue** for the top three and totals for other program service activities



Core form –

Part IV: (37+ questions): Checklist of Required Schedules: 16 Supplemental Schedules

- Schedule A – Public Charity Status and Public Support
- Schedule B – Schedule of Contributors
- Schedule C – Political Campaign and Lobbying Activities
- Schedule D – Supplemental Financial Statements
- Schedule E – Schools
- Schedule F – Statement of Activities Outside the U.S.
- Schedule G – Fundraising and Gaming Activities
- Schedule H – Hospitals
- Schedule I – Grants and Other Assistance In the U.S.
- Schedule J – Compensation Information
- Schedule K – Tax Exempt Bonds
- Schedule L – Transactions with Interested Persons
- Schedule M – Non-cash Contributions
- Schedule N – Liquidation, Termination, Dissolution or Significant Distribution of Assets
- Schedule O – Supplemental Information to Form 990
- Schedule R – Related Organizations and Unrelated Partnerships



Core form – Part IV: Checklist of Required Schedules: A, B, and C

- **Public charities** complete Schedule A
- Report certain **contributors** on Schedule B
- Report direct or indirect **political campaign activities** on Schedule C
- Report **lobbying activities** conducted by Section 501(c)(3) organizations on Schedule C
- Report **lobbying activities** conducted by certain Section 501(c)(4), Section 501(c)(5) or Section 501(c)(6) organizations on Schedule C



Core form –

Part IV: Checklist of Required Schedules: D

- Schedule D is required if you have:
 - Donor advised funds
 - Conservation easements
 - Collections of art, treasures, or similar assets
 - Credit counseling, debt management, credit repair, or debt negotiation
 - Serve as a custodian for amounts held in escrow or not on your balance sheet
 - Hold assets in term, permanent, or quasi-endowments

→ and there is more...



Core form – Part IV: Checklist of Required Schedules: D (continued)

- Schedule D is also required if you have:
 - Land, buildings, or equipment
 - Investments in non-publicly traded securities
 - Program-related investments
 - Other assets
 - Other liabilities
 - Audited financial statements (now a big question!!)
 - Not consolidated financial statements unless organization also received a separate audited financial statement
 - If you have a group audited financial statement, you may need to answer no and go to Schedule O



Core form –

Part IV: Checklist of Required Schedules: E & F

- Schools must complete Schedule E

- Concerning **foreign operations or activities**: did you:
 - maintain an office, employees or agents outside the U.S.?

- You may need to complete Schedule F if you:
 - had **revenue or expenses** from grant-making, fundraising, business, or program service activities outside the U.S. over \$10,000? (Schedule F, Part 1)
 - made grants or provided assistance to any other organization or **entity outside the U.S. over \$5,000**? (Schedule F, Part II)
 - made grants or provided assistance to **individuals outside the U.S. over \$5,000 in the aggregate**? (Schedule F, Part III)



Core form – Part IV: Checklist of Required Schedules: G

- Schedule G is required if you:
 - report **professional fundraising expenses** in excess of \$15,000
 - report **contribution revenue** in excess of \$15,000 from fundraising events
 - report **other revenue** in excess of \$15,000 from fundraising events
 - report other revenue in excess of \$15,000 from **gaming activities**



Core form –

Part IV: Checklist of Required Schedules: H & I

- Schedule H is required if you operate one or more hospitals (i.e., a facility licensed, registered or similarly recognized by a state as a hospital)

- Schedule I is required if you report over \$5,000 in the aggregate as:
 - grants and other assistance to **governments and organizations** in the U.S.
 - grants and other assistance to **individuals** in the U.S.



Core form –

Part IV: Checklist of Required Schedules: J; Question 1

- Focus on **current** compensation provided to **former** insiders, O, D, T, KE, and five highest paid employees ("HCE") that are listed in Part VII, Section A.
 - First, Schedule J is required if there is "**reportable compensation**" provided to:
 - A former O,KE or HCE of more than \$100,000 from you **and all related organizations**
 - A former DT of more than \$10,000 in that capacity from you **and all related organizations**
- Use a **five year look-back** to determine "former" insiders.
- "Reportable compensation" is the amount in **Form W-2, Box 5, Form W-2, Box 1, and Form 1099, Box 7.**



Core form –

Part IV: Checklist of Required Schedules: J; Questions 2 & 3

- Focus on compensation provided to **any former or current** insiders, O,D,T,KE, and the HCE. (The definition of "**key employee**" is explained in the instructions)

- Second, Schedule J is required if there is "**reportable compensation**" and "**other compensation**" provided to:
 - Any individual listed in Part VII, Section A, of **more than \$150,000** from you **and all related organizations**

- Third, Schedule J is required if any person listed in Part VII, Section A, is compensated by an **unrelated** organization for services rendered to you
 - Not intended to cover volunteer time but does impact management company situations



Core form –

Part IV: Checklist of Required Schedules: K

- The IRS asks if you have tax-exempt bonds with an outstanding principal balance over \$100,000 that were **issued after December 31, 2002**; if so:
 - Were bond proceeds invested beyond a temporary period exception?
 - Did you maintain an escrow account (other than a refunding escrow) to defease any tax-exempt bonds?
 - Did you act as an "on behalf of" issuer for bonds outstanding at any time during the year?
 - Also, complete Schedule K, Part 1



Core form –

Part IV: Checklist of Required Schedules: L (1 of 4)

- Section 501(c)(3) and Section 501(c)(4) organizations must use Schedule L to report **excess benefit transactions**:
 - that were engaged in during the current year or
 - that the organization became aware of during the current year for a prior year



Core form – Part IV: Checklist of Required Schedules: L (2 of 4)

- Organizations must also use Schedule L to report:
 - **loans to or by a current or former** O, D, T, KE, highest paid employee or disqualified person
 - **grants or other assistance to** O, D, T, KE, substantial contributors or any persons related to such individuals (charitable class exception)
- The title of Schedule L is "Transactions with Interested Persons."



Core form – Part IV: Checklist of Required Schedules: L (3 of 4)

- Further, organizations must also use Schedule L to report whether any current or former O,D,T, or KE:
 - have a **direct business relationship**
 - have an **indirect** business relationship through ownership of more than 35% in another entity (individually or collectively with other persons listed in Part VII, Section A)
 - **with you**, the filing organization.



Core form – Part IV: Checklist of Required Schedules: L (4 of 4)

- Finally, organizations must use Schedule L to report whether any current or former O,D,T, or KE:
 - have a **family member** who had a direct or indirect business relationship with the organization
 - **serves as** an officer, director, trustee, key employee, partner, member of an entity, (or shareholder of a professional corporation) doing business with the organization
- Organizations may rely on **“express reasonable efforts process”** (such as annual questionnaire) for most questions.



Core form – Part IV: Checklist of Required Schedules: M

- You will be required to complete Schedule M if you have received:
 - **more than \$25,000** in non-cash contributions (not use of facilities or services)
 - or if you received **any** contributions of
 - **art,**
 - **historical treasures, or other similar assets, or**
 - **qualified conservation contributions**



Core form – Part IV: Checklist of Required Schedules: N

- Schedule N is required to report:
 - liquidations, terminations, dissolutions, or other ceasing of operations,
 - sales, exchanges, dispositions, or transfers of more than 25% of fair market value of net assets, or undergo a substantial contraction

- Schedule N is not required to report:
 - change in composition of publicly traded securities in passive investment portfolio
 - asset sales made in the ordinary course
 - decrease in value due to market fluctuations
 - transfers to a disregarded entity of which organization is sole member



Core form –

Part IV: Checklist of Required Schedules: R

- Schedule R is required to capture information about the **complex organizational structures** of tax-exempt organizations. Use Schedule R to report your:
 - Ownership of disregarded entities
 - Relationships with any tax-exempt or taxable entities
 - Relationships with controlled entities
 - Transfers to an exempt non-charitable related organization
 - Conduct of more than 5% of your exempt activities through an unrelated entity that is taxed as a partnership



Core form – Part V (about 30 inquires): Other IRS Filings and Tax Compliance

- Tax-exempt organizations must comply with all applicable laws
 - Reporting payments on Form 1099, Form W-2G and the back-up withholding provisions
 - Reporting payroll and withholding taxes, Form W-2, Form 941 etc.
 - Identifying and reporting unrelated business income on Form 990-T
 - Reporting an interest in or signature authority over foreign bank accounts on Form TD F 90-22.1



Core form – Part V: Other IRS Filings and Tax Compliance

- Reporting whether **you are a party** to a prohibited tax shelter transaction and if you filed Form 8886-T

- Organizations that are not permitted to receive tax deductible charitable contributions must include a carefully worded notification that contributions are not deductible as charitable contributions.
 - generally applicable to Section 501(c)(4), (5), (6), (7), and 527 organizations



Core form –

Part V: Other IRS Filings and Tax Compliance

- Organizations that may receive tax deductible contributions (generally 501(c)(3) organizations):
 - Did you comply with the quid-pro-quo rules?
 - Did you file form 8282, if required, and if so, how many did you file?
 - Did you receive funds directly or indirectly to pay premiums on a personal benefit contract?
 - Did you file Form 8899, if required? (Intellectual property income)
 - Did you file Form 1098-C, if required? (Vehicles, boats, and airplanes)



Core form – Part V: Other IRS Filings and Tax Compliance

- The Pension Protection Act expanded the rules for **excess business holdings** to:
 - donor advised funds and
 - certain supporting organizations

- Therefore, Section 501(c)(3) and other sponsoring organizations maintaining donor advised funds and certain supporting organizations must indicate whether they had excess business holdings at any time during the year.



Core form – Part V: Other IRS Filings and Tax Compliance

- Focus on donor advised funds
 - Section 501(c)(3) and other sponsoring organizations maintaining donor advised funds must indicate whether the organization made:
 - any taxable distributions under **Section 4966**
 - distributions to a donor, donor advisor, or related person under **Section 4967**

- Additional questions for §501(c)(7), §501(c)(12), and §4947(a)(1) trusts



Core form – Part VI: Governance, Management, and Disclosure

■ Observations:

- While certain policies may not be required by the Internal Revenue Code, the IRS believes it has the authority to ask all of these questions.
- IRS sees a **link between governance and tax compliance**
- Answers contrary to conventional wisdom will likely create a **negative impression**
- Many **questions require additional disclosures**, explanations, and descriptions on Schedule O



Core form –

Part VI: Governing Body and Management

- How many **members of the board are voting members?**
- How do board members become board members?
- How many members are “**independent?**”
 - No compensation as officer or employee of organization
 - No more than \$10,000 for independent contractor services
 - No transaction or relationship reportable on Schedule L of organization or of related organization
- Does any O,D,T, or KE have a **family or business relationship** with any other O, D, T, or KE? **Exceptions** for ordinary course of business and privileged relationships
- Organizations may rely on "**express reasonable efforts process**”



Example: Independent board member?

- D is a voting member of both the organization's governing body and the governing body of C, a related organization. D's daughter, E, received \$40,000 in taxable compensation as a part-time employee of C.
- Is D an independent member of the governing body?



Examples: Reportable relationship?

- B is an officer of the organization, and C is a member of the organization's governing body. B is C's brother-in-law. Must this relationship be reported?
- F and G are trustees of the organization. F is the owner and CEO of an automobile dealership. G purchased a \$45,000 car from the dealership during the tax year in the ordinary course of business on terms generally offered to the public. Must this relationship be reported?
- H and J are members of the organization's board of directors. Both are CEOs of publicly traded corporations and serve on each other's boards. Must this relationship be reported?



Core form –

Part VI: Governing Body and Management

- Were management duties delegated to a **management company** or other person?
- Did the organization become aware of a **material diversion** of the organization's assets during the year (e.g. fraud)?
 - Includes diversions that occurred in prior years of which the organization just became aware
 - "Material" is defined as the lesser of \$250,000 or 5% of gross receipts or total assets
 - Must explain nature and amount of diversion and corrective action; but should not identify person involved unless the person was an insider



Core form –

Part VI: Governing Body and Management

- Does the organization have **members or stockholders** that can elect one or more members of the governing body?
- Are any decisions of the governing body **subject to approval** by members, stockholders, or other persons?
- Were there any **significant changes to the organizational documents** since the prior Form 990 was filed?



Core form –

Part VI: Governing Body and Management

- Is there **contemporaneous documentation** of meetings of the governing body and any committee with authority to act on behalf of the governing body? (i.e., written minutes by the later of the date of the next meeting or the passage of 60 days).

- Was the Board provided with a copy, (**whether paper or electronically**) of **completed** Form 990 before it was filed?
 - Describe the process, if any, the organization uses to review Form 990



Core form –

Part VI: Policies

- Written **conflict of interest policy**?
 - Are disclosures current, monitored, and is the policy enforced?

- **Whistleblower policy**?
 - Also consider those looking at your Form 990, 990-T, and other public information
 - Information pieced together can create value: Section 7623 rewards (15% to 30% of the taxes, interest, and penalties recovered)
 - Plaintiffs lawyers are looking for persons that are frustrated or disgruntled and have information or knowledge (many plaintiff firms have web-sites)

- Written **document retention and destruction policy**?

- If you have **local chapters, branches or affiliates**, are there written policies and procedures governing their activities?



Core form – Part VI: Policies

- Written policy to **evaluate participation in joint venture** arrangements and comply with federal law and safeguard tax-exempt status?
- Do you have a **gift acceptance** policy?
- Do you meet the **rebuttable presumption** for setting compensation for the CEO, other officers, and key employees?
 - Describe the process of setting compensation in Schedule O



Core form – Part VI: Disclosure

- List the states where a copy of this Form 990 is **required to be filed** (e.g. as in meeting charitable solicitation requirements); this is potentially self incriminating
- How do you make your application for exemption (e.g., Form 1023), Form 990, and (for charities Form 990-T) **available for public inspection**? (i.e., your website, another's website, or upon request). Explain on Schedule O if such forms are not made available.
- Do you make your governing documents, conflict of interest policy, and financial statements **available to the public**, and if so, how? (Describe in Schedule O)
- Name of the person, including their physical address, and telephone number, who **possesses** the organization's books and records.



Core form –

Part VII: Section A: O, D, T, KE, and HCE

- All current officers, directors, trustees and **key employees** ("O,D,T,KE") **whether paid or not**, must be listed
- Must list persons in a **specific order** by their classification
- Disclose compensation of all **current** officers, directors, trustees, key employees
- Disclose compensation to top **five highest paid** employees ("HCE") paid over \$100,000
- Disclose **current** compensation of **former** O, D, T, KE, and five HCEs (5 year look-back)
 - Former O,KE and five HCEs over \$100,000
 - Former DT paid over \$10,000 (in that capacity)

→ Much of this should cross-reference back to Part IV.



Core form – Part VII: Section A: O, D, T, KE, and HCE Focus on “key employees”

- New expanded definition of “**key employee**”; now there is a three prong test:
 1. **\$150,000 Test:** (i.e., receives reportable compensation from the organization and all related organizations in excess of \$150,000 for the calendar year ending with or within the organization’s tax year).
 - Reportable compensation is the amount reported on Form W-2 or Form 1099



Core form –

Part VII: Section A: O, D, T, KE, and HCE Focus on “key employees”

2. Responsibility Test

- (a) has responsibilities, powers or influence over the organization as a whole that is similar to those of officers, directors, or trustees;
- (b) manages a discrete segment or activity of the organization that represents 10% or more of the activities, assets, income, or expenses of the organization, as compared to the organization as a whole; or
- (c) has or shares authority to control or determine 10% or more of the organization’s capital expenditures, operating budget, or compensation for employees.

3. Top 20 Test

- Only report those the top 20 employees that satisfy the \$150,000 Test and Responsibility Test



Core form –

Part VII: Section A: O, D, T, KE, and HCE

- New definition of **officer** – now includes
 - top “management official” is the person with:
 - ultimate responsibility for implementing the decisions of the governing body or for supervising the management, administration, or operation of the organization
 - top “financial officer” is the person with:
 - ultimate responsibility for managing the organization’s finances



Core form – Part VII: Section A, additional points to consider

- Compensation is based on **W-2 and 1099 figures**, ("reportable compensation"); so all amounts will be for the **calendar year** ending within the organization's fiscal year
- Also requires listing of reportable compensation amounts paid by **related organizations** (look to the instructions for volunteer exception and the definition of "related organization") May rely on "express reasonable efforts"
- The \$100,000 and \$10,000 **thresholds include** reportable compensation paid by related organizations
- Estimated amount of "**other compensation**" provided by the organization and related organizations
- New form requires name and title of each person **but not their address**



Core form –

Part VII: Final points concerning this part

- Total number of individuals who received over \$100,000 of reportable compensation from you

- **Section B**
 - List the five highest paid independent contractors paid over \$100,000 of compensation by you and describe services provided (**INCLUDING** professional fundraisers – reporting redundancy)
 - Includes corporations, partnerships, and non-employees
 - Total number of independent contractors who received over \$100,000 of compensation from you



Is Schedule J required?

- First, Schedule J is required if there is "**reportable compensation**" provided to:
 - A former O, KE or HCE of more than \$100,000 from you and all related organizations
 - A former D,T of more than \$10,000 in that capacity from you and all related organizations

- Second, Schedule J is required if there is "**reportable compensation**" and "**other compensation**" provided to:
 - Any individual listed in Part VII, Section A, of **more than \$150,000** from you **and all related organizations**

- Third, Schedule J is required if any person listed in Part VII, Section A, is compensated by an **unrelated** organization for services rendered to you
 - Not intended to cover volunteer time but may impact management company situations; we'll have to wait and see.



Schedule J – Compensation Information

- Check the boxes if you provide:
 - first class or charter travel,
 - companion travel,
 - tax gross-ups,
 - a discretionary spending account,
 - a personal residence,
 - club dues or fees, or
 - personal services (e.g., a maid, chauffer, or chef)
- Did you follow a **written policy** for the above items?
 - if "No" provide an explanation
- Did you **require substantiation** prior to reimbursing for or allowing the above items for O,D,T, and CEO/ED?



Schedule J-- More questions about your compensation policies and practices

- Check the boxes to **indicate how the compensation** for the CEO/Executive Director was established
 - compensation committee,
 - independent consultant,
 - other Form 990s,
 - written contract,
 - salary survey,
 - approval by the board or compensation committee

- For those listed in Part VII (officers, directors, trustees, key employees and highest compensated employees); "Yes" answers must be explained in Part III
 - Did you provide **severance** payments or **change of control** payments?
 - Did you provide a **nonqualified** retirement plan or an **equity-based compensation** arrangement?



Schedule J – Compensation Information: Section 501(c)(3) and Section 501(c)(4) only

- For officers, directors, trustees, key employees and highest compensated employees (i.e., those listed in Part VII, Section A):
- Did you provide **incentive** compensation:
 - **Based on** the revenues or net earnings of the organization and any related organization?
- Did you provide any other type of **non-fixed compensation**?
- Did you provide compensation to anyone listed in Part VII pursuant to a contract that was subject to the **initial contract exception**?
- Any "Yes" answers must be explained



Schedule J – Compensation amounts

- Provides additional information for certain persons listed in Part VII of the core form
 - Name of person involved
 - Breakdown of W-2 or 1099-MISC compensation
 - **Base, bonus, and other compensation**
 - Deferred compensation,
 - Nontaxable benefits,
 - Line total for this row, and (in cases of **double counting**) compensation reported in a prior Form 990

- You must also report amounts paid by your related organizations and notice how showing the base and bonus pay related to the questions about your policies for incentive and non-fixed compensation.



Core form – Part VIII: Statement of revenue

- Revenue reporting has been combined with revenue analysis and there is **no column for exclusion codes**
- Columns for total, related or exempt function, unrelated business income and excluded revenue
- Relationship of activities to the accomplishment of exempt purposes **has been dropped**; and for Section 501(c)(3) and (c)(4) organizations, program service revenue should **relate to the direct revenue reported in Part III** for the corresponding program
- Interesting **new revenue lines** added:
 - Contributions from **fundraising events** and related organizations (1c & d)
 - Income from **investing tax-exempt bond proceeds** (4)
 - Income from **gaming activities** (9)



Core form –

Part IX: Statement of functional expense

- Retains existing columns for 501(c)(3) and 501(c)(4) organizations; some new expense lines and deletion of some others
 - Instructions contain guidelines and examples for allocating expenses among programs, management, and fundraising.
- Has breakout of compensation for ODTKEs and **other disqualified persons** (“ODP”)
 - Compensation amounts include all forms of income and other benefits earned or received in return for services rendered, including pension plan contributions and other employee benefits, but does not include non-compensatory expense reimbursements or allowances.
 - Amounts are based on the fiscal year (**not required to tie to the amounts in Part VII**)
- Breakout of fees to non-employees - management, legal, accounting, lobbying, fundraising, investment management and other.
- No material changes from current Form 990.



Core form – Part X: Balance sheet

- Most supplemental schedules to the balance sheet will be on Schedule D or L
- Retains current Form 990 balance sheet
- But show program-related investments separately from your regular investment portfolio
- Also separate lines for escrow accounts and secured mortgages and notes payable to unrelated parties
- Show loans to (and from) current and former ODTKE, HCE, and ODP
- Line description changed to "Payable to current and former" (ODTKE, HCE and ODP)



Core form – Part XI: Financial Statements and Reporting

- Accounting method used to prepare Form 990:
 - cash, accrual, or other; must explain on Schedule O if use other than cash or accrual or if changed accounting method from prior year

- Were your financial statements compiled, reviewed or audited by an independent accountant?
 - Answer no if consolidated financial statement only (may explain in Schedule O)
 - If yes, do you have a committee that assumes responsibility for the financial statements and selection of an independent accountant?

- Are you required to have an audit because of a federal award? And, if so, did you?



What To Do Today

- Review manner in which books are kept in order to **capture information** to be able to complete new form.
- Decide what **accounting system modifications** will be needed.
- **Review operations** to make sure you can respond to new policy questions appropriately.
- Review governance policies and actual practices; see Grant Thornton's **Chart of Policies and Procedures**



What To Do Today

- Consider **compensation arrangements** and determine which practices should end now.
- Be prepared to **explain all compensation arrangements** involving revenues or net earnings, or that are equity-based.
- Determine **status of loans** between organization and any interested person.



What To Do Today

- **Collect data on business and family relationships among current officers, directors, trustees, and key employees.**
- **Expand data on business relationships between the entity and current and former officers, directors, trustees, and key employees.**
- **Determine related entities and review transactions with them to make sure they are proper and appropriately documented.**
- **Apply new director independence standard and use compensation rebuttable presumption.**



What To Do Today

- Keep **contemporaneous minutes** for all committee meetings.
- Consider what information will be made public and **prepare explanations**.
- Begin **mock-ups** of what schedules will look like (especially Schedule O).
- Plan to **provide Form 990 to voting directors** prior to filing.
- See **Grant Thornton's Special Bulletin** about the new Form 990.

