

At Last! The IRS Releases the New Form 990

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The New Form 990:

On December 24, 2008, the Internal Revenue Service announced the release of the final version of the 2008 Form 990, Return of Organization Exempt from Income Tax. The redesigned Form 990 reflects the desire of the Internal Revenue Service to increase the transparency of tax-exempt organizations and promote tax compliance. The redesigned Form 990 is effective for the 2008 tax year and the Internal Revenue Service has established a phase-in transition period of three years in order to allow smaller organizations to file Form 990-EZ during a such transition period. For the 2008 tax year, organizations with gross receipts of less than \$1,000,000 and total assets of less than \$2,500,000 may choose to file either Form 990 or Form 990-EZ. Although Form 990-EZ was not redesigned for the 2008 tax year, an organization must determine if it is necessary to file certain new Form 990 schedules with its Form 990-EZ.

The new Form 990 is comprised of an 11 page core form, with 16 schedules. The Internal Revenue Service redesigned the Form 990 to capture additional information regarding areas of concern, including compensation, governance and relationships with insiders and other organizations. Enhanced reporting is also required with respect to activities outside the United States, fundraising activities, tax-exempt bond issuances and the charitable function of hospitals.

The Effect of the New Form 990 on Your Organization:

Many questions in the new Form 990 center around an organization's policies and procedures. Although many policies and procedures referred to in the new Form 990 are not required under Federal income tax law, the Internal Revenue Service states in the instructions to the new Form 990 that it believes governance policies and procedures improve tax compliance. An organization required to file Form 990 should review and evaluate its policies and procedures to ensure all appropriate policies and procedures have been adopted. Important policies and procedures referenced in the new Form 990 include the following:

Policies:

- Conflict of Interest Policy
- Whistleblower Policy
- Document Retention and Destruction Policy
- Joint Venture Policy
- Policy on Board and Committee Minutes
- Chapter or Branch Governance Policy
- Expense Reimbursement Policy

Procedures:

Review and Approval of Executive Compensation

Review of Form 990

Tax Exempt Bond Compliance

The new Form 990 requires extensive reporting regarding the governing body of an organization. An organization should evaluate the size of its Board and the independence of the members of the Board. A review of committees may also be warranted.

Due to additional financial reporting requirements, an organization should also review the adequacy of its recordkeeping and accounting practices. The new Form 990 requires a breakdown of contributions and separate reporting of certain fees, investments and debt. Additional reporting is also required with respect to lobbying and political activities, as well as donor advised funds, conservation easements and endowment funds. Overall tax compliance is also questioned on the new Form 990, so an organization should ensure that all required Form W 2s and Form 1099s are filed and that a Form 990 T is filed if appropriate.

Additional Information

The new Form 990 and instructions can be found at www.irs.gov. If you have any questions about the new Form 990 or any other matter affecting your organization, please contact Martha Sweterlitsch at 614.223.9367 or mswiperlitsch@beneschlaw.com, or Jessica Angney at 216.363.4620 or jangney@beneschlaw.com.