

IRS Form 990 – An Overview

The new IRS 990 form is a significant redesign in format and content compared to the current form that was adopted in 1979. Major changes, according to the IRS, include a front page summary that provides a snapshot of key financial and operating information, a governance section, and revised compensation and related organization reporting. In order to increase reporting compliance, the new form replaces existing “unstructured attachments” with formal schedules. Other schedules were added for foreign activities, non-cash contributions, hospitals and tax-exempt bonds, to collect information not required by the current form.

NOTE: Instructions for filing the 990 form are still being promulgated and the IRS advises that the final instructions should be released by December 31, 2008.

The new 990 form requires each filing organization to provide certain information regarding the composition of its board or governing body, certain of its governance policies and practices, and the means by which it is held accountable to the public by making governance and financial information publicly available. Many of the questions request information on practices or policies that are not required by federal tax law. However, good governance and accountability practices provide safeguards that the organization’s assets will be used consistently with its exempt purposes. This is a critical tax compliance consideration, especially for organizations that are subject to private benefit, excess benefit, and private inurement prohibitions. In addition, well-governed and well-managed organizations are more likely to be transparent organizations with regard to their operations, finances, fundraising practices, and use of assets for exempt and unrelated purposes.

The new form’s *summary* page provides a snapshot of key financial and operating information, and displays a two-year comparison of summary financial information of the organization. The reordered core form provides a description of the organization’s program service accomplishments immediately after the summary page, to provide context before the user proceeds to sections on tax compliance, governance, compensation, and financial statements. The *Checklist of Required Schedules* also provides a quick view of whether the filing organization is conducting activities that raise tax compliance concerns, such as lobbying or political campaign activities, transactions with interested persons, and major dispositions of assets.

The IRS claims the new form promotes uniform and complete reporting of information previously requested in unstructured attachments. A major drawback of the current Form 990 is the lack of formatted tables in the form itself or in schedules for an organization to use to report and display requested information. Instead, the current form relies on instructions that describe how an organization is to report information in “unstructured attachments” to the form. The IRS says that information provided by organizations in these attachments is frequently incomplete, or the required attachments are missing.

Major modifications to reporting of compensation and related organization activities will provide more complete information regarding complicated compensation and financial arrangements that may raise concerns about private inurement, excess benefit, and private benefit. The new schedules for foreign activities, hospitals and tax-exempt bonds will provide new information about how an organization conducts activities consistently with its exempt purpose. The schedule for non-cash contributions will notify the IRS which organizations are receiving various types of non-cash contributions, allowing it to more closely scrutinize particular types of contributions for compliance with valuation and charitable deduction requirements.

The new form can be more burdensome than the current form. Organizations with complicated compensation arrangements, related entity structures, and activities that raise compliance concerns can expect to see an increase in the effort required to complete the form. This increase could be significant in some cases.

The new 990 form may or may not satisfy an organization's state reporting requirements that are determined by the individual states. Many states rely on a Form 990 filing to satisfy various reporting requirements, and the impact of the new form may have on individual state reporting requirements has not been determined. The IRS says it will be working with the states to help them determine whether changes in their reporting requirements may be needed.

Source: IRS (www.irs.gov/eo)