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Non-Profits Under the Microscope

New IRS Form 990 Leads the Way

For the first time since 1979, the Internal Revenue Service has redesigned the annual information return that tax-exempt organizations are required to file each year.

The IRS developed this new form under three guiding principles: to enhance transparency, to promote tax compliance and to minimize the reporting burden on filing organizations.

However, for larger organizations, the new reporting requirements will be more complex and burdensome than ever before.

Over the next year, organizations should review their operations and policies and procedures to ensure they can answer the new questions appropriately.

Significant changes

So far, the changes affect only those mid-size to large Section 501(c)(3) public charities that are required to file a Form 990. The changes do not affect private foundations, which are required to file Form 990-PF.

Because of the significant changes with the new form, the IRS also has announced a graduated transition period for smaller organizations.

- For the tax year 2008, the first filing using the new form, organizations with gross receipts less than \$1 million or assets less than \$2.5 million can use the Form 990-EZ.
- For the 2009 tax year, organizations with gross receipts less than \$500,000 and total assets less than \$1.25 million can use the Form 990-EZ.
- Organizations with less than \$25,000 in gross receipts can file the new Form 990-N, called the "e-postcard."

- By 2010, every organization with assets greater than \$500,000 and gross receipts of more than \$200,000 must use the new Form 990.

- Also, starting with the 2010 tax year, the IRS will increase the filing threshold for organizations required to file Form 990-N from \$25,000 to \$50,000.

More than just a tax form

The new Form 990 is much more than a financial reporting document.

It contains questions designed to probe deeper into the governance processes of the organization, its compensation procedures and its operating policies.

The IRS believes that the existence of an independent governing body and well-defined governance and management policies and practices are good indicators that the organization is likely to be operating in compliance with federal tax law.

Questions to be asked will include:

- Did any officer, director, trustee or key employee have a family relationship or a business relationship with any other officer, director, trustee or key employee?
- Was a copy of the Form 990 provided to the organization's governing body before it was filed? All organizations must describe the process used to review the Form 990.

In general, boards should consist of members who can exercise independent judgment so that objective decisions are based solely on the best interest of the organizations and not any possible financial interests of a board member.

Traditionally, boards have delegated the completion of the Form 990 to staff administrators and accountants. Trustees will now need to be more actively involved in answering important questions about governance policies and practices.

In addition to the governance, the IRS wants to know what “best practices” policies are in place and followed such as:

A conflict of interest policy; a written “whistleblower” policy; a written document retention and destruction policy that determines how long you keep your records; and written documentation of all activities of all governing body meetings by any committee.

Compensation Procedures and Expense Reimbursement Policies

Many compensation packages are not limited to salaries.

Expense reimbursement policies have had a lot of media attention recently, such as first-class travel for companions, housing allowances, discretionary spending accounts, and other such perks.

Review Section 4958 of the Internal Revenue Code for solid guidance.

The new Form 990 asks whether an organization’s process for determining the compensation of top management officials, officers, and key employees includes:

Review and approval by independent persons; compensation comparability data; written records of the deliberations and decisions of compensation decisions.

Opportunity

Because it is public information, anyone will be able to obtain a copy of an organization’s Form 990 to assist in their decision to support your organization.

Boards should use the new Form 990 as an opportunity to improve transparency and accountability to strengthen their ability to achieve their mission and continue to grow public support.

View the revised Form 990 and new schedules at:

www.irs.gov/charities/article/0,,id=176637,00.htm

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