Getting Ready for the New Form 990

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Introduction

Why did the IRS make such substantial revisions to Form 990?

- Hadn't been revised since 1979-needed overhaul
- IRS Goals: enhancing transparency, promoting tax compliance, and minimizing burden on the filing organization
- New form has pre-formatted schedules to replace most attachments

What steps should an organization take to ease the burden of gathering extensive array of new data requested on the new form?

Who should be involved in the return preparation function -- the CEO, CFO, VP Human Resources, VP Development, Board Treasurer or Finance Chair, or Others?

What policies and procedures were adopted prior to year end?

How should documentation systems and board questionnaires be improved?

Is software capable of accumulating necessary information?

New definitions - reasonable effort, key employee, independent board member, business relationship, regions (for outside U.S. activities)

Penalties - IRS intends to enforce a $100 per day penalty ($1 million + organization) for incomplete and inaccurate returns.

Schedule O may be the first page everyone looks at on Guidestar in the future.

Phase-in of Form 990/Eligibility to file Form 990-EZ

May file 990-EZ for:	*If gross receipts are:*	*If assets are:*
2008 tax year (filed in 2009)	> $25,000 and < $1 million	< $2.5 million
2009 tax year (filed in 2010)	> $25,000 and < $500,000	< $1.25 million
2010 and later tax years	> $50,000 and < $200,000	< $500,000

* An organization maintaining donor advised funds or making transfers during the year to a related controlled entity may not file Form 990-EZ instead of Form 990.
** 990-EZ may not be used to file a group return.
***To calculate gross receipts, proceeds of sales of goods and investments count.

What has been added to Form 990-EZ?

- Front page is mostly the same, except for prompt to attach Schedules G.
- Much more room for listing officers, directors, trustees and key employees on page 2
- Two options for reporting compensation (Past version or W-2/1099)
- Page 3 Questions 33-43 are the same questions with added prompts to attach schedules L and N
- Page 3/4 Questions 44-51 essentially provide information previously entered on Schedule A with prompts to attach Schedules C and E.
- Questions 44 and 45 must be "No," if 990-EZ is to be filed.
- Information regarding employees and independent contractors paid >$100,000, up from $50,000
- Attachment for grants paid is still used rather than Schedule F or I but has $5,000 threshold

Overall concept of changes to Form 990

- Core form completed by all organizations
- First page is "snapshot" of organization with comparisons to last year
- Schedules completed as applicable to each organization
- Elimination of unstructured attachments for the most part (Schedule O)

Form 990 Core
Part I – Summary

- Front page now presents a snapshot of the organization.
- Three lines to describe the mission or significant activities
- Key governance questions about # of independent board members in relation to total board members - coordinate with Part VI
- Number of employees and volunteers
- Gross unrelated business income compared to net taxable UBI.
- Revenues compared to professional fundraising fees
- Broad categories of revenue and expense this year vs. prior year

Part II – Signature Block

Check box to authorize IRS to discuss the return with the return preparer was added; period is one year from date return is filed.

Part III – Program Service Accomplishments

- This part can be the most important part of the return. Information about accomplishments, donated services not reported elsewhere, # of clients served, reports issued, etc. should be provided.
- Expense reporting for this part continues to be required only for §501(c)(3) and (4) organizations and §4947(a)(1) trusts; voluntary for others.
- Mission "as articulated in its mission statement or as otherwise adopted by the organizational' governing body" is described UNLESS board has not approved a mission. If not, leave this blank.
- Questions about changes in program service activity described in Schedule O. Submission will not trigger IRS approval for the changes.
- Code to identify the filer's discipline or industry focus not required for 2008.

- NEW and possibly difficult to account for is the blank for revenue, including unrelated business income, generated by each program activity described. Donations are not included here.

Part IV – Checklist of Required Schedules

- From A-R, questions prompt attachment of 16 different schedules for more information. For some lines, thresholds of $5,000-$100,000 are provided for grants paid, fundraising, non-cash donations, and bond balances.
- Certain lines are frustrating because subject is not mentioned. Instructions say "See Glossary and instructions for pertinent schedules for definition of terms and explanations that are relevant to questions in this part,"
- Answer to audit or not in Question 12 is NO if filer included in consolidated financial statements.
- A "NO" answer simply means no schedule is required to be attached. Very importantly, §501(c)(3) organizations MUST answer Questions 3 and 25a and 25b "NO."

Part IV - Chart of Amount/Time Sensitive Answers

Question	Schedule	Title	Threshold	Any time during year	At year end
1	A	Public charity status	n/a		X
2	B	Contributions Received	$5,000 or 2%	X	
3	C	Political campaign activity	Any amount	X	
4	C	Lobbying activity	Any amount	X	
5	C	Lobby disclosure/proxy tax	Of any amount	X	
6	D	Donor-advised fund	Of any amount	X	
7	D	Conservation easements	Of any amount	X	
8	D	Art & collectables	Of any amount	X	
9	D	Credit counseling/escrows	Of any amount	X	
10	D	Endowment funds	Of any amount	X	
11	D	Investments/other assets	Of any amount*		X
12	D	Audited statements	n/a**		X
13	E	School	n/a	X	
14b	F	Foreign activities	$10,000	X	
15	F	Foreign grants-organizations	$5,000	X	
16	F	Foreign grants-individuals	$5,000	X	

Question	Schedule	Title	Threshold	Any time during year	At year end
17	G	Prof. fundraising fees	$15,000	X	
18	G	Fundraising revenue/events	$15,000	X	
19	G	Gaming revenue	$15,000	X	
20	H	Operate hospital	n/a	X	
21	I	Grants to organizations	$5,000	X	
22	I	Grants to individuals	$5,000	X	
23	J	Comp-former officials Officials/highly paid	Of any amount $150,000	X X	
24	K	Tax-Exempt Bonds	$100,000		X
25	L	Excess benefit transactions	Of any amount	X	
26	L	Loans to officials	Of any amount	X	
27	L	Grant to related party	Of any amount	X	
28	L	Business relationships	Of any amount	X	
29	M	Non-cash contributions	$25,000	X	
30	M	Art/collectible gifts	Of any amount	X	
31	N	Liquidate or terminate org.	n/a	X	
32	N	Dispose/sell >25% assets	Of any amount	X	
33	R	Disregarded entity	Owned 100%	X	
34	R	List related entities	0	X	
35	R	Controlled business entity			
36	R	Transfers to non-charity	Of any amount		

* For line 13, Program-related investments, only if amount exceeds 5% of assets.

** Answer is NO for organizations whose financials are included in consolidated audited statements

Part V – Other IRS Filings and Tax Compliance

- Lines 1-5 comprise a useful list of filings, such as 1099s and W-2s that might be required.
- Lines 6-12 highlight disclosures and other compliance issues including:

- Backup withholding on prizes/awards
- Prohibited tax shelter transaction
- Non-deductibility disclosure requirement
- Quid pro quo contribution disclosure
- Excess business holdings for supporting organizations and donor advised funds
- Taxable distributions from donor advised funds
- §501(c)(7) and (c)(12) income requirements.
- Form 5500 not included.

Part VI – Governance, Management, and Disclosure

This is the most significant area of change and requires careful contemplation of "recommended but not required" policies to determine what is best for your organization. It may be challenging to gather requested information and draft responses requested in Schedule O -- for both Yes and No answers.

- Question 1 is new and requires identification of "independent" board members.
- Question 2 is familiar though definition of business relationships has been simplified.
- Filing entity "need not engage in more than a **reasonable effort** to obtain the necessary information to determine the independence of members of the governing body and may rely on information provided by such members."
- Question 3 concerns delegation of control to a management company
- Material diversion of assets (potential excess benefit transaction)
- Questions about members and their rights
- Contemporaneous documentation of board and committee meetings
- Local chapters, branches, and affiliates – does main organization establish consistency guidelines?
- Review of 990/provision of copy to board prior to filing (changes??)
- Conflict of interest policy (not new but important) - coordinate with Sch. L.
- Monitoring of conflict policy
- Whistleblower policy
- Document retention and destruction policy
- Compensation reasonableness procedure (intermediate sanctions)
- Participation in a joint venture (written policy/procedure)
- How is 990 provided for public inspection?
- Should other documents be provided – governing docs, COI policy, financial statements? Nondiscrimination policy for schools? Gift policy?

A member of the governing body is considered "independent" only if all three of the following circumstances applied at all times during the organization's tax year:

- Member was **not compensated as an officer or other employee of the organization** or of a related organization (controlled).
- Member did not receive total compensation or other **payments exceeding $10,000** during the organization's tax year from the organization or related organizations **as an independent contractor**, other than reimbursement of expenses under an accountable plan **or reasonable compensation for services provided in the capacity as a member of the governing body**. For example, a person who receives reasonable expense reimbursements and reasonable compensation as a director of the organization does not cease to be

independent merely because he or she also receives payments of $7,500 from the organization for other arrangements.

- Neither the **member, nor any family member** of the member, was **involved in a transaction with the organization** (whether directly or indirectly through affiliation with another organization) that is required to be reported in Schedule L for the organization or a related organization.

A member of the governing body is **not considered to lack independence merely because** of the following circumstances:

- Member is a donor to the organization, regardless of the amount of the contribution;
- Member has taken a bona fide vow of poverty and receives nontaxable income from a religious order.
- Member receives financial benefits from the organization solely in the capacity of being a member of the charitable or other class served by the organization in the exercise of its exempt function, such as being a member of a §501(c)(6) organization, so long as the financial benefits comply with the organization's terms of membership.

Organizations may need to use a team approach in preparing Form 990s in the future. Addition of governance issues of this magnitude indicates a need for input not only from the financial folks, but also board members, human resources and program staff, and possibly others dependent upon the complexity of the organization.

Part VII – Compensation

- This part is an improved version of prior Part V-A and Schedule A, Part I.
- Discrete positions are provided in a check-box fashion.
- What's new are the definitions.

Officers, Directors and Trustees

For purposes of this part and Schedule J, these terms include:

Member of board of directors or trustees,

Elected Officers include the president, vice president, secretary, treasurer, and without regard to their title, the following officials:

Top management official is the person who has ultimate responsibility for implementing the decisions of the governing body or for supervising the management, administration, or operation of the organization.

Top financial official is the person who has ultimate responsibility for managing the organization's finances.

Three tests - all of which must apply - define a Key Employee

$150,000 Test: 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.

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% [originally 5%] 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.

Top 20 Test: Only the top 20 employees that satisfy the $150,000 Test and Responsibility Test are reported stating with those that receive the highest.

Thresholds for who gets reported on Part VII

Category	Reportable Compensation (Medicare Wages - col. (d) & (e))
Current officers, directors/trustees, CEO, CFO	$ -0- Report ALL
Current key employees	$150,000
Current five highest compensated employees	$100,000
Non-key employees and independent contractors	$100,000
Former officers, key and five highest employees	$100,000
Former directors/trustees	$ 10,000*in capacity as a former

Schedule J Reporting Threshold

All persons, except the formers, listed above in Part VII must be reported on Schedule J if sum of columns (c), (d), (e), and (f) exceeds $150,000. If a former is listed in Part VII, he or she must be listed in Schedule J.

- Form is wrong when it says report all key employees regardless of comp threshold – must be $150,000 of Medicare wages according to instructions.
- Addresses are no longer requested.
- Person meeting definition "at any time during org's tax year" reported.
- Column C must report real hours – "as needed" or" 40+" not acceptable.
- Column D comp amount reportable on calendar year basis according to W-2 or /1099. Term **reportable compensation** does not include benefits**.**
- Related entity compensation in column (E) and (F) if it exceeds $10,000.
- Reasonable effort to identify related comp by use of completed and signed questionnaire provided to and returned by all board members is acceptable.
- Volunteer's comp paid by a non-controlled or owned for-profit entity not reported.
- Column E "Other comp" reported if >$10,000 and includes items not reportable on W-2 or 1099:
    - Tax-deferred payments by employer to retirement plan,
    - Increase in actuarial value of defined-benefit plan

- Value of health insurance and reimbursement plans,
- Employer contributions to non-qualified plans.

$10,000-per-item exception

Column F reflects "other compensation," representing non-taxable benefits not reportable on W-2 or 1099 from both the organization itself and related entities. Some benefits are only reported if they exceed the somewhat confusing **$10,000-per-item exception.** The $10,000 exceptions apply separately with respect to each item of other comp from the organization and from each related organization. The items that must be included regardless of amount are the following:

- Tax-deferred payments by employer to retirement plan,
- Value of health insurance and reimbursement plans that are not included in reportable compensation,
- Employer contributions to non-qualified plans,
- Increase in actuarial value of qualified or non-qualified defined-benefit plan.

Example. Org. X provides the following compensation to its current officer:

$110,000 reportable comp, (including $5,000 pre-tax employee contribution to qualified defined-contribution retirement plan)	Includible in reportable comp
$5,000 tax-deferred employer contribution to qualified defined-contribution retirement plan	Includible in other comp
$5,000 nontaxable employer contribution to health benefit plan	Includible in other comp
$4,000 nontaxable dependent care assistance	Excludible under $10,000 per item rule
$500 nontaxable group life insurance premium	Excludible under $10,000 per item rule
$8,000 moving expense (nontaxable as qualified under section 132).	Excludible because under section 132

Org.Y, a related organization, also provides compensation to the officer as follows:

$21,000 reportable comp (including $1,000 pre-tax employee contribution to qualified defined-contribution retirement plan)	Includible in reportable comp from related organizations
$1,000 tax-deferred employer contribution to qualified defined-contribution retirement plan,	Includible in other comp
$5,000 nontaxable tuition assistance.	Excludible under $10,000 per item rule

In the example, Organization X and Y are combined - total reportable comp for both is $131,000, ($110,000 plus $21,000) and total includible other compensation is $11,000, for a total of $142,000. Note excludible items below $10,000 actually total $17,500, but are not reported. In this example, the officer's total reportable and other compensation ($142,000) does not require completion of Schedule J.

If instead, the officer's reportable comp from Y were $30,000 rather than $21,000, then the officer's total reportable and other compensation ($151,000) would be reportable in Schedule J, including the dependent care, group life, and tuition items, even though these items would not have to be reported as other comp in Form 990, Part VII.

- The total amount of compensation reported in Schedule J may be higher than the amount reported in Form 990, Part VII, Section A. Schedule J asks more questions about benefits provided (the $10,000-per-item does not apply) to evaluate overall compensation reasonableness.
- Instructions contain an amazing 3-page chart of types of reportable comp and benefits.
- Section B is similar to previous Schedule A, Part II-A and II-B except there is no distinction between professional and other independent service providers.

Part VIII – Revenue

- The former front page revenue section has been combined with the former Part VII, Analysis of Income-Producing Activities that identifies unrelated business income. Except for program services, codes eliminated.
- It is important to coordinate with Part III for (c)(3) and (c)(4)s.
- Titles in contribution section expanded.
- Pledged contributions reportable at discounted present value for GAAP also reported net of discount for this and Schedule A purposes.
- No titles for program service revenue.
- Membership dues reported on line 2 when services commensurate with dues paid are provided.
- Old lines 4 and 5 combined.
- Royalty line should be used for investments, not program service royalties.
- New line for gaming distinguished from fundraising.
- Attachments regarding special events and gaming activities have been replaced with Schedule G.

Part IX – Expenses

- Again, the expense display format is unchanged.
- Added lines will provide useful information.
- Three lines now provided for grants and assistance to separate foreign activity and prompt completion of Schedules I (domestic) and F (foreign).
- New fees-for-services lines doubles identified professional services, including not only legal, accounting and fundraising, but now management, lobbying, investments.
- Advertising and promotion and information technology added.
- Supplies, telephone, postage and shipping, equipment rental and maintenance, and printing and publications replaced with a singe line for Office Expenses.
- Depreciation schedule has been eliminated.
- Consider whether accounting or other data systems will provide information needed else where for volunteers, governance, and in-kind donations.

Part X – Balance Sheet

- Again this part is mostly the same.
- Separate lines for land, building, and equipment held for investment versus exempt functions eliminated.
- Program-related investment line added.
- Schedule D replaces attachments with pre-formatted display.

Part XI – Financial statements and reporting

- Accounting method disclosure moved here from front page.
- "Yes-No" questions added to report nature of independent accounting services organization received – compilation, review, or audit – and existence of an audit committee to oversee independent accountants.
- Organizations with financial information compiled, reviewed, or audited on a consolidated basis answer "NO" and add comment in Schedule O.
- If an organization received federal awards, it must say if it underwent audit(s) required by Circular A-133.

Schedule A – Public Charity Status and Public Support

Annual monitoring of public charity status and, for some, satisfaction of the public support test is crucial for §501(c)(3) organizations for several reasons. Private foundations are reluctant to make grants to non-public charities because of the enhanced documentation required for such grants. Loss of public status turns the public charity into a private foundation subject to enhanced operating restraints and excise tax on its investment income.

- Part I contains the same display formerly used to identify the organization's category of public charity status.
- Information for supporting organizations expanded (columns v and vi).
- Rare, but critical, issue exists for a SOs organized as a trust.
- Parts II and III contain separate worksheet for calculation of §509(a)(1) or (2) tests.
- Calculation now uses 5-year period including the year of the return.
- Form 8734 eliminated - notices sent to existing advance ruling holders.
- Check-boxes clearly identify when an organization is reclassified as a PF. Relief in 2008 for entity not aware it was a PF.
- Information to claim facts and circumstances test or unusual grant exclusion must be explained in Part IV.
- If lines 14-15 (15-16 on page 3) both below 33-1/3%, line 18 (line 20) indicate conversion to a private foundation and filer is directed to file Form 990-PF rather than 990.
- When calculation shows less than 33-1/3%, the unusual grant and facts-and-circumstances rules should be considered.

Schedule B – Schedule of Contributors

Virtually unchanged except that now organizations that complete a mathematical support test (>33-1/3%) must report governmental grants on Sch. B.

Schedule C – Political Campaign and Lobbying Activities

This schedule has questions that present serious exemption questions for organizations that participate in election campaigns and those that lobby to convince elected officials to pass laws. The IRS conducted examinations during 2005-2007 and, as a result, issued useful guidance with examples gathered during the exams. [Rev. Proc. 2007-41, 2007-25] IRC §4911 and related regulations contain significant definitions and examples regarding direct and grassroots lobbying. Public charities that lobby are encouraged to make an election under §501(h) to follow the §4911 standards.

- Serious pitfalls can occur on this schedule.
- Part I-A blanks **must be zero** for §501(c)(3) organizations! All other types of §501(c) entities can have political campaign involvement.
- Part I-B reflects any penalties a (c)(3) paid for forbidden campaign activity.
- Part I-C asks for information about PAC-type activity for non-(c)(3)s.
- Part II-A is completed for (c)(3)s using §501(h) to measure permissible lobbying.
- Part II-B looks like the old Schedule A, page 5 disclosures with additional lines plus a question about penalties and/or loss of (c)(3) status for excessive lobbying.
- §501(c)(4)-(6) entities must calculate non-deductible dues paid by members or lobbying expenses subject to the proxy tax because amount not disclosed to members.

Schedule D – Supplemental Financial Statements

A hodgepodge of information is requested on this schedule. Many parts request statistical information not necessarily produced by the organization's accounting system.

- Part I - Donor advised funds
- Part II - Conservation easements
- Part III - Collections
- Part IV – Trust escrow and custodial arrangements
- Part V - Endowment funds (delay in details – get ready for 2009) - includes funds held for other organizations.
- Parts VI-X contains balance sheet details previously shown on attachments for investments, other assets, other liabilities.
- Part X - Other liabilities - Federal income tax and FIN 48 footnote disclosed.
- Part XI – Reconciliation of Net Assets - formerly on bottom of front page
- Part XII and XIII - Reconciliation to audited financial statements - no clear instructions for consolidated return issue.

Schedule E – Schools

The questions on this schedule are exactly the same as those that appeared in former Schedule A, Part V, *Private School Questionnaire*.

Schedule F – Activities Outside the United States

A distinction between programs conducted in the U. S. and those conducted outside the U. S. was not requested and not necessarily illustrated in prior Form 990s. There is no geographic limit placed on the place where programs qualifying for exemption can be operated. In former 990s, the type and extent of activities conducted outside the U.S. was sometimes identified in the activity description in prior Part III and foreign addresses appearing on the attachment listing grantees. The only information requested pertained to foreign bank accounts, now question 4 in Part V, question 4. Amounts are reported by nine regions rather than by particular country name to provide security for those working in dangerous areas.

Governance-type questions asked in Part I - nature of selection criteria for grantees and method of documenting and monitoring use of grant funds.

- Part I - threshold for this part is $10,000 of revenue **or** expense for all non-U.S. activity.
- Potential confusion about the word "revenue." There is no line or column to report revenues. The instructions say an unrelated trade or business must be reported. Title to column (d) includes fundraising. What about investments?
- Part I begins with governance-type questions about selection process, documentation gathered and maintained, monitoring steps.
- Part II threshold requires listing of grants to foreign organizations that exceed $5,000 by nine regions. Due to concerns for the safety of organization's personnel and offices, individual country names are not listed. Instructions have an amazing display of the countries located in the nine regions. For 2008, names of grant recipients are not required.
- "Manner of cash disbursement" input in column (f).
- Part III displays aid and grants to foreign individuals when the total exceeds $5,000.
- Statistics required include # of individuals, total of cash granted, total value of non-cash disbursements, plus a description of valuation method.

Schedule G – Fundraising or Gaming Activities

Several different exemption issues arise in connection with fundraising and gaming that are surveyed in this schedule. The IRS is very concerned that the fees paid to persons raising funds on behalf of an organization represent reasonable comp and that the fees are not netted against proceeds of a campaign or event. The IRS cooperates with states by providing them the answer to Part I, question 3. The detailed questions asked about gaming evidence three-fold IRS concern: that state licensing rules are followed, identity of unrelated business income, and the level of and proper reporting of compensation with managers of the games. IRS Publication 3079, *Gaming Publication for Tax-Exempt Organizations*, should be studied by those conducting gaming activities. The publication starts with a caution that the following tax issues may be involved:

- Bingo is gambling.
- Pull-tabs are not Bingo.
- Gambling is not charitable.
- Tax-exempt organizations may be subject to tax on unrelated business income, employment, excise, and withholding taxes.

- Part I is completed if the organization reports more than $15,000 to professional fundraisers on line 11e of Core Part IX that lists functional expenses.
- Check boxes in Part I reflect the methods of solicitation of funds.
- Top ten fundraisers paid at least $5,000 are listed in Part I.
- Whether such persons had custody over the funds is requested.
- Gross receipts from fundraising efforts plus the amount paid to the fundraiser and what was left for the organization is submitted.
- Part II completed when organization receives more than $15,000 of revenue from events.
- The display of information is essentially the same as that requested in an attachment for such revenue in the prior returns with the addition of some revenue and expense details.
- Only top two rather than previous three reported by individual event.
- Part III is completed when organization receives > $15,000 of gross receipts from gaming activities.
- Details reported separately for bingo, instant bingo or pull-tabs.
- Questions regarding licensing, non-member participation, individuals involved, and more asked.

- IRS working with states to examine non-filers holding licenses.

Schedule H – Hospitals

The rules for qualification of exemption for hospitals have evolved over the years since 1956 when the IRS ruled hospitals had to treat patients not able to pay for their care to the extent of the hospital's financial ability.[1] This charity care position was replaced in 1969 with a *community benefit standard*.[2] To qualify for tax exemption, a nonprofit hospital had to possess most of the following attributes to prove it promoted the community's health:

- Control by a community-based board of directors with no financial interest in the hospital
- Open medical staff with privileges available to all qualified physicians
- Emergency room open to all (unless this duplicates services provided by another institution in the area)
- Acceptance of Medicare and Medicaid patients
- Provision of public health programs and extensive research and medical training
- No unreasonable accumulation of surplus fund
- Limited funds invested in for-profit subsidiaries

Schedule H is required for organizations that operate one or more hospital facilities. Due to the complexity and expectation that requested information may not be available, **for 2008 hospitals are only required to complete Part V** to list the name, address, and type of hospital.

Schedule I –Grants and Other Assistance to U.S. Orgs, Governments, and Individuals

Though it is not mentioned specifically on the form or the instructions, an organization's selection and eligibility process for awards should be designed to provide funds to organizations and individuals that meet criteria designed to avoid discrimination against applicants based on race, color, or creed and the organization's insiders. A tax-exempt organization has a responsibility to operate to benefit what is referred to as an exempt class of persons, rather than a select few. This schedule is required if an organization has paid >$5,000 in grants or assistance and begins in Part I with a request for due diligence-type information to evidence the exempt purpose of grants and assistance awarded.

- Question 1 in Part I asks if the organization can substantiate the charitable nature of its grant program both as to amounts awarded and its process for choosing recipients.
- Question 2 asks a grant-making organization to describe its policies and procedures regarding its monitoring of grantees' use of funds awarded.
- Periodic reports or field investigations are suggested as tools to monitor grantees.
- The former 990 only asked §501(c)(3) organizations, on Schedule A, Part III, to attach such information.
- Instead of attaching their grant application as many did in the past, this new schedule provides all descriptive information regarding eligibility, selection criteria, and documentation processes used for grants by entered in Part IV.
- Part II has a >$5,000 per recipient organization threshold.
  - New requirement requests the EIN and IRC Code Section of grantees.

Rev. Rul. 56-185, 1956-1 C.B. 202.

[2] Rev. Rul. 69-545, 1969-2 C.B. 117, amplified by Rev.Rul. 83-157 to remove the open emergency room requirement.

- Part III has a >$5,000 in total assistance and grants provided to individuals threshold.
  - The total of each type of assistance is reported plus # of recipients (new) and amount of cash and non-cash assistance.

Schedule J – Compensation Information

A quick study of this schedule reveals its purpose is to identify instances in which the organization has provided benefits to its officials and key and highly paid persons. Again written policies must be described.

Required for orgs listing one or more of the following in Part VII:

- Former officer, key employee, or highest comp. employee (paid > $100,000)
- Former director or trustee (paid > $10,000)
- An individual with total comp (reportable + other + related org comp) > $150,000
- An individual receiving comp from an unrelated org for services to the org

Part I considers compensation practices of the organization for all employees, officers, directors, etc. IRS Hot Buttons from compensation examinations reflected in check boxes in Line 1 for first-class travel and other perks. It is important to describe if benefits reported as compensation, or if not, why benefit is important, i.e. “First-class travel allowed only for cross country or overseas travel.” This part provides important information that will demonstrate whether the organization has practices that ensure the payment (and documentation of reasonable compensation not subject to Intermediate Sanctions.

Part II provides specific information about individuals’ compensation and pertains only to those individuals whose compensation prompted completion of Schedule J.

Schedule K – Tax-Exempt Bonds

This new schedule is required for organizations with outstanding bonds with principal amount of >$100,000, issued after 12/31/02, and outstanding as of the last day of the tax year.

- Part I is the only part required for 2008; it requests general information, such as issue price and purpose. Additional parts request information about use of proceeds, private business use, and arbitrage.
- Organizations should prepare ahead for 2009.

Schedule L – Transactions with Interested Persons

This schedule consolidates information previously requested in multiple parts of the old 990. Interested persons are defined as:

- Current or former officers, directors, trustees, key employees, and five highest compensated employees listed in Section A of Part VII.
- Persons without titles who in fact have substantial influence can also be treated as “interested” and family members that are treated as disqualified persons by §4958.
- Substantial contributors not counted except for grants and awards paid.
- Part I - Excess benefit transactions reported.
- Part II - Loans to and from interested persons – with no minimum threshold

- Part III - Grants or assistance benefiting interested persons
- Part IV - Business transactions involving interested persons don't include those occurring in person's normal business at usual rates for customers.

Schedule M – Non-Cash Contributions

This schedule is required when non-cash contribution revenue is > $25,000. The IRS is seeking information to allow it to analyze extent of such gifts and to monitor compliance with rules for disclosures and valuation of such gifts for income tax purposes.

- *Types of Property* information in Part I may require retooling data gathering systems for organizations that receive gifts of art, land, cars, and the like.
- For 2008, tally of the number of gifts is not required for books, publications, and clothing. Calculation of this number either based on a count or possibly number of donors.
- Questions 29 and 30 must be carefully considered because "Yes" answers present potential violation of tax compliance rules.
- Question 31 presents an organization without a gift acceptance policy the issue of whether to adopt one.

Schedule N – Liquidation, Termination, Dissolution or Significant Disposition of Assets

The organizational documents of tax-exempt organization are expected, and mostly required, to stipulate that its assets are dedicated to exempt purposes and upon its dissolution will continue to be devoted to such purposes. This schedule displays information intended to determine that requirement is satisfied. The same information was previously provided on an attachment.

- Part I reports destination of assets in dissolution – the value of assets and method of valuation, the name, EIN, and exempt category of the recipient of assets.
- Part I also asks questions to identify an ongoing relationship with the successor organization.
- Part II asks for the same information in regard to a partial transfer by sale, exchange, disposition (a grant), or other transfer of >25% of the organization's assets.

Schedule O – Supplemental Information

This is a blank schedule to be used to provide additional information requested in the Core Form and Schedules. It is actually required as part of the Core. The organization should clearly identify the part of the Core or Schedule that the response pertains to and should organize responses by the order of the parts and schedules. IRS indicates up to at least 100 pages of text may be permitted though software development still in process may impose limits.

Schedule R – Related Organizations and Unrelated Partnerships

Parts I and V are largely similar to information requested in the past. Parts II-IV expand information requested about related organizations. Types of related organizations that must be disclosed include:

- Parent/Subsidiary – power to remove and replace a majority of board or board overlap of a majority of board members of both organizations

- Brother/Sister – same persons constitute a majority of the members of the governing body of both organizations
- Supporting/Supported – an organization that either claims to support the filing organization or that the filing organization claims to support
- Stock Corps/Other – ownership > 50% of stock, profits/capital interest, managing partner in LLC/Partnership with less than 4 managing partners, general partner in a limited partnership with less than 4 general partners

New Required Information

Information	Tax-Exempt Org	Partnership	Corp/Trust
Primary Activity	YES	YES	YES
Legal Domicile	YES	YES	YES
Exempt Code Section	YES	N/A	N/A
Public Charity Status	YES if above is (c)(3)	N/A	N/A
Direct Controlling Entity	YES	If relationship 4 applies or 1, 2 and org is also a partner	If relationship 4 applies or 1, 2 and org is also an owner
Character of income	N/A	If relationship 4 applies or 1, 2 and org is also a partner	
Share of income	N/A	If relationship 4 applies or 1, 2 and org is also a partner	If relationship 4 applies or 1, 2 and org is also an owner
Share of assets	N/A	If relationship 4 applies or 1, 2 and org is also a partner	If relationship 4 applies or 1, 2 and org is also an owner
UBI amount	N/A	If relationship 4 applies or 1, 2 and org is also a partner	N/A
Gen/Mg Partner	N/A	If relationship 4 applies or 1, 2 and org is also a partner	N/A
Type of entity	N/A	N/A	YES
% ownership	N/A	N/A	If relationship 4 applies or 1, 2 and org is also an owner

Part VI is new and requests information about unrelated partnerships through which the organization conducted > 5% of its activities measured by total assets or gross revenue whichever is greater. Partnerships not reported include:

- Partnership the primary purpose of the investment is the production of income and not a §501(c)(3) charitable activity, and
- Partnership with 95% or more revenue from passive income sources such as interest, dividends, and capital gain.

Conclusion

- Evaluate whether the organization is eligible to file 990-EZ.
- Consider governance policies and procedures to have in place by year-end.
- Begin to draft descriptions of procedures/explanations for Core Part VI.
- Evaluate information systems to determine if data needed to complete form is readily available and redesign if not – Schedules D, F, G, I, J, and M particularly request new information.
- Establish a Form 990 planning team to coordinate efforts of the board, finance, marketing, human relations and other organizational departments that will be gathering information.