

Understanding the 990 Board Members' Responsibility

Presented by:

Lisa R. Johnson, CPA, Tax Principal

CS&L CPAs



Form 990

- Tax Exempt Organizations that have average gross receipts of \$200,000+ or total assets of \$500,000+ at year-end must file Form 990
- IRS expanded the 990 in 2008 to encourage non-profits to comply with rules and follow sound policies
- Form 990 is available to the public for inspection



Form 990

- Due 15th day of 5th month after year-end, with an extension of up to 6 months available
- Penalties for late filing; revocation of status after 3 years of non-filing
- Two Goals to achieve with 990:
 - 1) Follow IRS compliance and retain exempt status
 - 2) Present mission and value to the Public



Public Disclosure

- Use this disclosure to your advantage
 - Increase public awareness about the organization, its mission, and its accomplishments
- Factors that are considered in non-profit performance:
 - Transparency
 - Governance
 - Leadership
 - Results



Form 990

- 12 pages, most of which needs to be completed
- Schedules A-R, of which only the applicable schedules need to be completed.
 - A. Public charity status and public support
 - B. Schedule of contributors
 - C. Political campaign and lobbying activities
 - D. Supplemental financial statements
 - E. Schools
 - F. Statement of activities outside the U.S.
 - G. Supplemental information regarding fundraisings or gaming activities
 - H. Hospitals



Form 990

- I. Grants and other assistance to organizations, governments, and individuals in the U.S.
- J. *Compensation information
- K. Supplemental information on tax exempt boards
- L. *Transactions with interested persons
- M. Non-cash contributions
- N. Liquidation, termination, dissolution, or significant disposition of assets
- O. Supplemental information
- R. *Related organizations and unrelated partnerships

Other forms as required may be needed.



Form 990, Page 1

- Summary of the highlights of the information included in the 990
- First impression to supporters and potential supporters
- **Question 1** – Organization’s statement as to why the organization is important and vital
- Governance summary
- Revenue, expense, and net asset or fund balance summary



Form 990, Page 2

- Details of significant program services and mission
 - Make sure the individual in your organization charged with marketing and branding reads the descriptions in this section
- Focus on services and accomplishments during the preceding year (don't simply copy last year's description)
- List the amounts spent by program service for the 3 largest program services of the organization



Form 990, Pages 3-4

- Checklist of required schedules
- If yes to any questions, a schedule is generally required to be included with more details

Form 990, Page 5

- Statements regarding IRS filings and tax compliance
- For example, have W-2's/1099's been filed?
- Other topics:
 - Unrelated business income, foreign accounts, documentation sent to donors, donations of cans, boats, airplanes



Form 990, Page 6

- Governance, management and disclosure
 - All board members should know the answers to these questions
- Describes who governs the organization
- How the 990 is reviewed & disclosed
- Conflict of interest policy
- Whistleblower policy



Form 990, Pages 7-8

- Compensation of officers, directors, trustees, key employees, highest compensated employees, independent contractors
- All current officers, directors, trustees regardless of compensation level
- All current key employees
 - In general, more than \$150,000 compensation, passes responsibility test, and is one of the top 20 highest paid employees



Form 990, Pages 7-8, cont.

- 5 current highest compensated employees (*other than those above*) who received compensation of \$100,000+
- All former officers, key employees, and highly compensated employees who received \$100,000+ in compensation
- All former directors or trustees that received more than \$10,000 of reportable compensation
- 5 highest independent contractors that receive more than \$100,000 in the year
- Schedule J must be completed for anyone with compensation over \$150,000, and any former officers, etc. listed



Form 990, Page 9

Revenue

- Break down of all sources of income
- Donations, program service revenue & other
- Program service revenue & other revenue then categorized as related/exempt function, UBI, or excluded under 512-514

Form 990, Page 10

Expenses

- All expenses listed and categorized as program service expenses, management & general expenses, or fundraising expenses
- Training, planning, evaluations, internal systems – sustain or improve itself



Form 990, Page 11

Balance Sheet

- Lists all assets, liabilities, and net assets or fund balances

Form 990, Page 12

- Reconciles ending net assets or fund balances at year-end
- Discloses financial statement reporting



IRS Hot Issues

Interested or Disqualified Persons

- Transactions with *interested persons* require disclosure on Schedule L
 - ***Interested Person*** – Any current or former officer, director, trustee, key employee and highest compensated employees
 - Also includes *Disqualified Persons*
-
- Part I – Excess Benefit Transactions
- Part II – Loans to/from Interested Persons
- Part III – Grants or Assistance benefitting Interested Persons
- Part IV – Business Transactions involving Interested Persons



Excess Benefit Transactions

- Exists when the economic benefit provided (either directly or indirectly) by an applicable tax exempt organization to, or for the use of, a **disqualified person** exceeds the value of the consideration received
 - **Disqualified Person** – Anyone who was *at any time* during the 5 year period, (ending on the date of the EBT), in a position to exercise substantial influence over affairs of the organization. Also includes members of such person's family and any entity in which the person (or family) have more than a 35% interest
- Section 4958 Excise taxes – DP-25% of excess benefit received. If not corrected within the prescribed period this goes up to 200%
- Organization manager who participated in the EBT is subject to 10% of the excess benefit



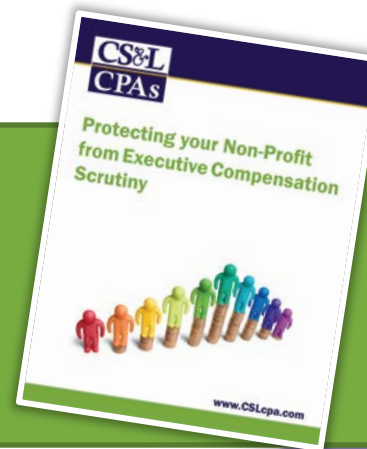
Executive Compensation

Schedule J

- Board members have fiduciary responsibility
- Obtain a rebuttable presumption of reasonableness
 - Annual review by an independent body
 - Comparable data should be used
 - There should be concurrent and adequate documentation of the Board's consideration in the minutes

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on executive compensation

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to download your copy



Related Organizations

- Requires Disclosure on Schedule R
- For purposes of determining related organizations must look to control of the organization
- Transactions with related organizations must be disclosed on part V

Unrelated Business Income (UBI)

An activity is an unrelated trade or business if all of the following conditions exist [Reg. 1.513-1(a)-1(d)]:

1. Trade or Business

The organization is conducting a trade or business for the production of income from selling goods or performing services

2. Regularly Carried On

The trade or business is regularly carried on

3. Unrelated to Exempt Purpose

The activity is “not substantially related” to the carrying out of the organization's exempt purpose



UBI Exceptions

Although an activity is generally taxable if all of these conditions are met, certain activities are statutorily excluded from taxation even if they meet all three criteria.

- Any activity in which substantially all of the work is performed by **unpaid volunteers**
- An activity carried on by a Section 501(c)(3) entity or by a governmental college or university, primarily for the **convenience** of its members, students, patients, officers, or employees
- The sale of merchandise, substantially all of which has been received by the organization as a gift or contribution
- A qualified public entertainment activity, or certain convention/trade show activity, when conducted by a **qualifying organization**
- “Games of chance,” such as bingo, pull tabs, raffles, video games, poker, and lotteries. Typically the organization operates the games with unpaid volunteers



Five things the Board should check before filing Form 990

1. Compensation of key executives – Is the amount about what you expected?
2. Statement of Program Service Accomplishments - Does this section convey the message you want to send to the public and the IRS?
3. If applicable, review transactions with “interested persons” on Schedule L and Transactions with related organizations on Schedule R - Any surprises?
4. Prepare a public disclosure copy which excludes list of substantial contributors from Schedule A and blank out donor names and addresses on Schedule B
5. Make sure the return is filed on time - Fines and penalties can be imposed



Questions/Comments?



Contact Lisa

Lisa Johnson, CPA
Tax Principal, CS&L CPAs

Ljohnson@CSLcpa.com

(941) 748-1040

www.CSLcpa.com

