for the organization filing the 990 or any related organization. Important to the stakeholder is whether the CEO/Executive Director's entire compensation was based on either revenue or net earnings. In this case there may be the temptation to misrepresent the financial position of the organization by overstating the earnings or understating the expenses. Stakeholders also need to view the information when partial compensation is based on revenue or net earnings. It is not unusual for a CEO/Executive Director to receive an increase only if there is an increase in the organization's performance or if the organization has a surplus. Hopefully there is enough information provided by the organization in its description to allow the stakeholder to compare the relationship between the compensation and revenue or earnings.

The Revised 990

– Will this bring about a greater "corporate" demeanor to organizations?

The 990 revision was developed in response to IRS concerns about transparency and accountability. The IRS observes that "a well-governed organization is more likely to be tax compliant. As a result, the questions . . . included have a two-fold purpose—to provide some insight into an organization's practices as well as to educate organizations about such practices . . . ." (IRS, Form 990 Redesign, 2007, p. 3) The form 990 may not only be helpful, then, in revealing potential compliance issues for organizations that are not well-governed, but it may encourage an organization that does not currently "comply" with the policy questions being asked to consider taking measures for doing so.

The 990 asks whether the organization has a written whistleblower policy as well as asking questions related to conflict of interest, document retention and destruction policies, and executive compensation.

While all of this is very good and should provide confidence that public money and private contributions are well spent, the majority of questions related to governance and policies do not appear on either the 990 E-Z or 990 Postcard, meaning only organizations with larger dollars in revenue and assets will be required to respond to them. This is troubling because many of the larger organizations already have these policies in effect or can readily implement them. It is the smaller organization that is more vulnerable to noncompliance simply because it does not have the resources or specialized knowledge to recognize that these policies should be in place. Hopefully, after the IRS has experience with the revision for larger organizations, it will implement a checklist of good practice for small organizations as well.

This report is a summary. For the full report on changes to the 990, please visit our Web site at www.cce-rochester.org/library/.

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Federal Form 990 Revisions

A Move Toward Greater Accountability & Transparency of Nonprofits

September 2008

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On December 19, 2007, the IRS issued a draft of its newly revised Form 990, the first major revision since 1979. In explaining its reasons for the revision, Acting IRS Commissioner Kevin Brown stated, "'The tax-exempt sector has changed markedly since the Form 990 was last overhauled more than a quarter of a century ago . . . . We need a Form 990 that reflects the way this growing sector operates in the 21st century. The new 990 aims to give both the IRS and the public an improved window in the way tax-exempt organizations go about their vital mission.'" (IRS, IR-2007117, 2007)

With these concerns in mind, the IRS cited "three guiding principles" in the redesign of the form: 1) enhancing transparency to provide the IRS and the public with a realistic picture of the organization filing the return; 2) accurately reflecting the organization's operations so as to allow the IRS to efficiently assess the risk of noncompliance—thereby promoting compliance; and 3) minimizing the organization's burden of filing. (IR-2007-117, 2007)

Changes To The Core Form

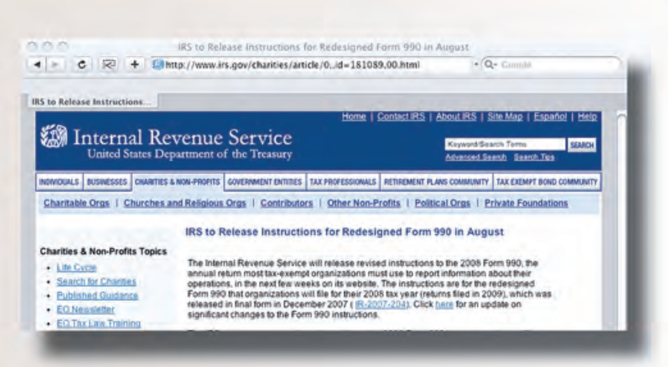
Below are some specific areas in the new revision that are notable from a stakeholder perspective.

The new form starts with a summary page which includes information related to the year of formation and other governance facts, such as the number of independent voting members compared to the total number of voting members on the governance committee. From a stakeholder perspective, the more independent the member, the more objective that member may be in carrying out their responsibility to set policy and direction for the organization and to hire and evaluate the chief executive.

In addition to providing information on governance, the summary section requires the total number of volunteers and employees. This information is beneficial on a global basis in order to monitor the growth of the nonprofit sector as a whole. Previous 990 versions indicated only the number of employees on the organization's payroll on a certain date and did not ask for the number of volunteers. The inclusion of totals will be beneficial when comparing similar organizations. Specifically, it helps identify those organizations that rely heavily on a volunteer base to provide direct services, for example; an organization that provides meals for shut-ins.

The summary also includes information related to the organization's gross- and net-unrelated business income. Only recently has the 990-T been open for public inspection. Form 990-T, Exempt Organization Business Income Tax Return, is the form on which the organization reports its taxable income derived from a business activity unrelated to its mission. This information is invaluable to stakeholders. Based on the dollar amount of unrelated income, users may determine whether the exempt mission continues to be the organization's primary focus or, alternatively, if taxable endeavors are now overshadowing that mission. Of course, as with any analysis, this information must be viewed in light of all the facts and circumstances. For example, an organization may have very high unrelated business income, but that income may support the majority of the program services provided by the organization in carrying out its exempt mission.

Part III remains as the Statement of Program Service Accomplishments and starts with the mission statement followed by questions indicating whether there are new programs or changes to existing programs. One welcome addition to Part III is its inclusion of revenue and expenses for its three major programs. Although this is beneficial to



Detailed draft forms and instructions can be accessed through the IRS website.
http://www.irs.gov/charities/article/0,,id=181089,00.html

the user who will potentially contribute to the organization, this information must be viewed with caution. A major program may continually run a deficit due to the very nature of the program, but, if it significantly contributes to the organization's primary mission, then the organization may elect not to end that program. Organizations that do not receive adequate funding to fully support an individual program will need to be more cognizant of how they allocate expenses across programs in order to provide users with an accurate picture of each program's sustainability.

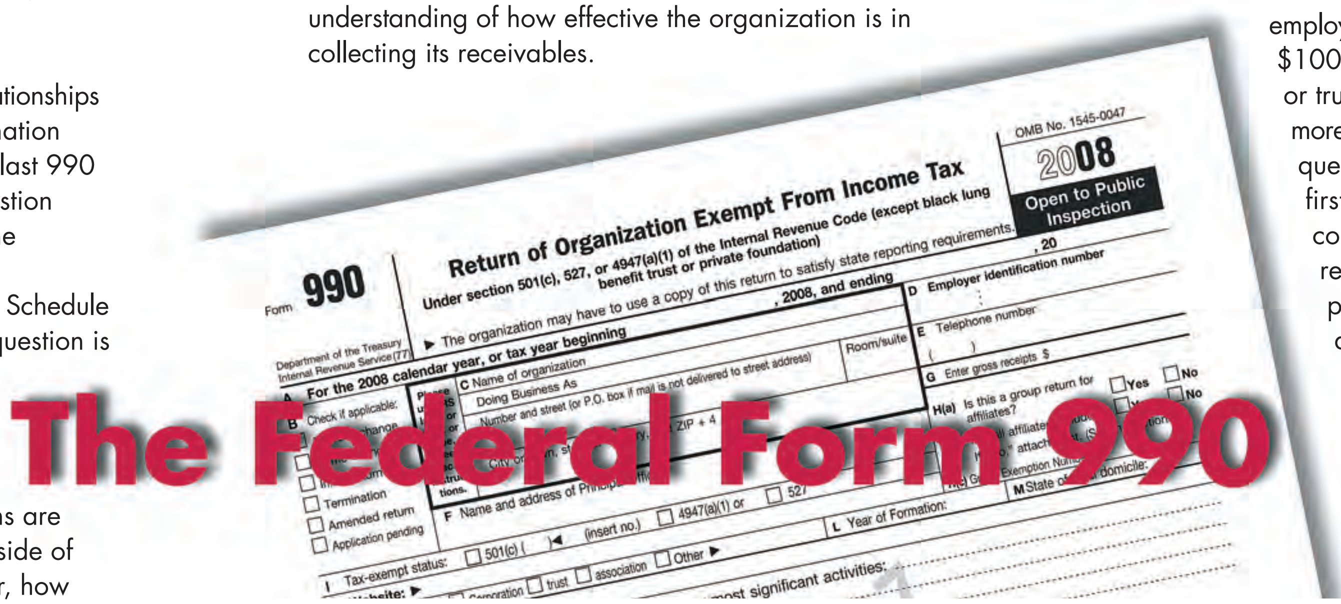
Part V, Statements Regarding Other IRS Filings and Tax Compliance, asks a series of questions related to normal operating procedures for an organization. In particular, new to the core 990 form, are questions relating to filings for employee tax payments, W2-G for gaming, and Form 1098-C for contributions of vehicles. This section also includes a number of questions related to donor advised funds.

In general, the questions in Part VI examine the relationships between directors and officers and ask for information relating to changes in the organization since the last 990 was filed. One item of particular interest is a question asking whether the 990 form was reviewed by the governing body prior to filing, in which case the organization must describe that review process in Schedule O, Supplemental Information to Form 990. This question is interesting from a stakeholder perspective since the 990 is not an audited form and can be, and has been, prepared by an employee of the organization, or even the treasurer of the board of directors. Not all nonprofit organizations are required to have a financial statement audit. Outside of receiving financial statements throughout the year, how extensive should this review process be? The question asked on the 990 delves into whether there was a review but it fails to address whether the governing body has the knowledge or experience to conduct an adequate review.

Part VIII is the revised Statement of Revenue and is now broken down into three distinct sources of funding: contributions, gifts, and grants and other similar amounts. This section of the 990 is a combination of what appeared previously in Part I and Part VII of the old form. While program service revenue continues to be itemized, the new form does not require a break down of the amounts received from Medicare/Medicaid, fees and contracts from government agencies, and membership dues and assessments.

Part IX is the Statement of Functional Expenses and includes a revision of the specific line items to be reported. The intent of these changes is to allow for greater transparency of the organization.

Part X, Balance Sheet, remains relatively the same as the prior form. Disappointingly, this form combines Pledge and Grants Receivable. Since an organization may have considerable amounts due from either source, users will no longer be able to determine whether the amount shown is to be received from contributors in the form of a pledge or a governmental agency as a contracted grant. This is also surprising in light of an apparent emphasis on reporting amounts spent on professional fundraisers. Also disappointing is that the receivables are all reported on a net basis. Although this is similar to corporate returns, the amount outstanding for the receivable versus the corresponding uncollectible amount would provide a better understanding of how effective the organization is in collecting its receivables.



The core form ends with Part XI, Financial Statements and Reporting. This section starts with the accounting method used that previously was indicated in the identifying information section of the previous version of the 990. It also asks whether the organization's financial statements were compiled, reviewed or audited by an independent accountant. If they have been, the form then asks if there is a committee that assumes responsibility for oversight of the audit, compilation, or review and also selects the independent auditor.

Highlights of Selected Schedules:

Of the 16 possible schedules that an organization may be required to complete, two that were of particular interest are Schedules G and J. Both of these include new or expanded information compared to the information reported on the previous version of the 990.

Schedule G, Supplemental Information Regarding Fundraising or Gaming Activities, is to be completed by organizations that receive more than $15,000 from fundraising events or gaming activities or that have paid more than $15,000 to professional fundraisers. Part I of the form starts by asking for the types of activities used to raise funds, such as mail or phone solicitations. This is followed by the amounts paid to professional fundraisers and includes the related information on the gross receipts and amount retained by the fundraiser.

Schedule J, Compensation Information, is an expansion of Part VII of the core form. Organizations are required to complete this schedule if they reported information on any former officer or key or highly compensated employee who received compensation of $100,000 or more and former directors or trustees who received $10,000 or more in compensation. There are questions related to providing for first-class or charter travel, travel for companions, or personal service requiring the organization only to provide relevant information, but it does not require disclosing the dollar amount spent.

Also relevant are the questions requesting information on compensation for any officer or director that was contingent on either revenues or net earning