

Tax Talk Today

Audience Q&A

November 4, 2008

The Internal Revenue Service has provided responses to the following questions for educational use only. These responses are not intended to establish IRS position or practice and may not be relied on or cited as precedent. For more detailed information, please refer to the "Charities and Nonprofits" section of www.irs.gov.

Question

You keep mentioning a phase in period. How will that work?

Answer

If an exempt organization is required to file an annual information return for tax year 2008 and its gross receipts are less than \$1 million and its total assets are less than \$2,500,000 at the end of its 2008 tax year, then it will be eligible to file the Form 990-EZ rather than the Form 990. For the 2009 tax year, the organization will be eligible to file the Form 990-EZ rather than the Form 990 if its gross receipts are less than \$500,000 and its total assets are less than \$1,250,000. For the 2010 tax year, the organization will be eligible to file the Form 990-EZ rather than the Form 990 if its gross receipts are less than \$200,000 and its total assets are less than \$500,000. This phase-in period will give many smaller organizations more time to understand the Form, information required to be reported on the Form, and measures needed to gather that information.

Question

Ronald stated that they were trying to bring sectors into the new form over a three year period. Are the Gross Receipts and Asset Limits going to be reduced in the future for the 990 Filing requirements? (below 2.5 million for assets & 1 million for gross receipts)?

Answer

Yes. For the 2009 tax year, an organization will be required to file Form 990 if it has \$1.25 million in total assets or \$500,000 in gross receipts. For 2010, these figures are reduced to \$500,000 total assets or \$200,000 gross receipts.

Question

Did I hear correctly that the threshold for filing the 990 EZ will be lowered again in 2010?

Answer

The lower threshold will be raised to annual gross receipts normally not exceeding \$50,000. If an organization is under this threshold for tax year 2010, it may elect to file the Form 990-N rather than the Form 990 or 990-EZ. The upper thresholds for the Form 990-EZ will be lowered to \$200,000 gross receipts for the tax year and \$500,000 total assets for the tax year. If a filer is below both of these thresholds, it may elect to file the Form 990-EZ for tax year 2010 rather than the Form 990.

Question

My client does not want to file a 990 for 2007 for their 1st filing year since receiving their non-profit status letter from the IRS because they point to the 990 instructions which state that a minimum gross receipts for 2007 is \$25,000. I have advised against their idea. Instead I am recommending that they make a "protective filing" of either a 990 or 990-EZ to confirm their non-profit status after just receiving their status letter from the IRS.

Answer

Filing a Form 990 or 990-EZ is generally not required if an organization's annual gross receipts are normally below \$25,000. Such organization is generally required to file a Form 990-N (e-filing) for a given tax year if it does not file a Form 990 or 990-EZ for that year. See Form 990 General Instructions A and B for details. Filing a Form 990 or 990-EZ does not in any way "confirm" non-profit status.

Question

I have a not-for-profit with a fiscal year end of March 31. They are eligible for the 2008-EZ. Their return is due next week. What form should I file? Is the 2008-EZ ready to go?

Answer

An organization whose 12-month fiscal year begins in calendar year 2007 and ends in calendar year 2008 must use the 2007 Form 990 (or 990-EZ, if its gross receipts for the tax year were less than \$100,000 and its total assets were less than \$250,000) to report for its tax year (unless it is not required to file a return). If the organization's fiscal year begins in calendar year 2008, it would file the 2008 Form 990 or 990-EZ.

Question

Who has to file form 990 or form 990EZ now? Would a group that meets to discuss and learn more about specific software that are all using be required to file tax returns?

Example: A group that annually has dues received of about \$3,300 a year which are used primarily to cover the years meeting refreshments, office supplies and travel of a member to represent the group at the software company. This group has a Federal EIN set up for a business league and for banking purposes.

Answer

Assuming that such a group qualified as a tax-exempt organization, its only filing requirement at a gross receipts level of \$3300 per year would be a Form 990-N (e-postcard).

Question

We have a client which currently files a Form 990-EZ will we be required beginning in 2010 to file the Form 990? The gross receipts are less than \$50k per year.

Answer

No, if the organization gross receipts are less than \$200,000 and its total assets are less than \$500,000 at the end of its 2010 tax year. If, in tax year 2010, the organization's gross receipts are still normally less than \$50,000, it will be eligible to file Form 990-N.

Question

Is a nonprofit organization with a June 30, 2008 year end required to file the e-postcard this year, or would it be required to start in 2009 with fiscal year end June 30, 2009?

Answer

The first Forms 990-N (e-Postcards) are due beginning in 2008 for tax years ending on or after December 31, 2007. The e-Postcard is due every year by the 15th day of the 5th month after the close of your tax year. For example, if your tax year ended on June 30, 2008 and you are required to file the e-Postcard, then the e-Postcard is due November 15, 2008. You cannot file the e-Postcard until after your tax year ends.

Question

Has there been any discussion about increasing the level of receipts for filing the Form 990N?

Answer

The upper threshold for filing Form 990-N instead of Form 990-EZ, currently annual gross receipts normally not exceeding \$25,000, is scheduled to increase to \$50,000 in 2010.

Question

Locally my daughter has a memorial scholarship dispensing about \$200 per year with a capital on deposit under the scholarship account of less than \$2000. Does the new requirement apply to her? Must she file a 990 now?

Answer

If the memorial scholarship fund is a tax-exempt organization, then its filing requirement depends on its gross receipts and total assets. The smallest organizations (annual gross receipts normally \$25,000 or less) generally are eligible to electronically file the Form 990-N "e-postcard," the least burdensome filing requirement. Organizations with annual gross receipts normally greater than \$25,000 must file either Form 990-EZ or Form 990. Smaller organizations that have annual gross receipts of less than \$1 million in 2008 and total assets less than \$2.5 million generally may file the 2008 Form 990-EZ, the short form version of Form 990 which is less burdensome. Some organizations, such as churches, are exempted from filing any of these three forms. For more information, see General Instructions A and B of the 2008 Form 990.

Question

I hope we can file a 990ez as this new form seems very complex. Is the ez as complex?

Answer

No, the form 990-ez is considerably less complex.

Question

How extensive is the questionnaire for very small organizations....that would normally file 990EZ?

Answer

Form 990-EZ runs for four pages (in contrast to the 11-page Form 990), plus several possible schedules. The reporting burden for Form 990-EZ filers has not increased from 2007 to 2008.

Question

If filing 990-EZ, do all these various schedules apply?

Answer

The only schedules that must be filed with Form 990-EZ are Schedules A, B, C, E, G (Parts II and III), L (Parts I and II), and N, as applicable.

Question

If you qualify for the 990EZ, but, you have UBI and must file a 990T, does this matter?

Answer

An organization may file both Form 990-EZ (or 990-N) and Form 990-T.

Question

When an exempt organization has an unrelated business activity are they still required to file the 990 even if the assets and receipts are under the 990 threshold?

Answer

No, but it may be required to file Form 990-EZ or 990-N, as well as Form 990-T.

Question

I had a question related to the Form 990, that relates to the new Form 990-N and the elimination of the advance ruling period. If a new organization has applied or is going to apply for tax exemption with the IRS, but will have less than \$25,000 in gross receipts during its first five years, thereby filing the 990-N each year, will that provide enough evidence of that organization's public support so as not to be deemed a private foundation? I'm just worried that since these newer small organizations don't file the Form 990, and thus the Schedule A, they don't really have a place on the Form 990-N to prove their public support.

Answer

An organization that files Form 990-N should monitor its public support, and should file Form 990-PF when it no longer qualifies as a public charity.

Question

Do the Form 990 changes apply to Section 501(c)(6) organizations?

Answer

The new Form 990 generally applies to all section 501(c) organizations including 501(c)(6) organizations, though some Schedules (such as Schedule A) and certain lines (e.g., reporting expenses, grants, and revenues in Part III, line 4; lines 5-8 in Schedule J) may apply only to 501(c)(3) and/or 501(c)(4) organizations.

Question

Why don't churches qualify to file form 990? Are there any plans to have them file?

Answer

Churches are excepted under Code section 6033(a)(3)(A)(i) from filing Form 990, though they may voluntarily file the Form. We are not aware of any pending legislation to change this law.

Question

Does a church with an onsite preschool have to file form 990?

Answer

A church does not have to file Form 990-series returns (except Form 990-T for unrelated business taxable income). The answer does not change if the church operates a preschool as an activity, assuming that the entity as a whole qualifies as a church, which would ordinarily be the case (see Rev. Rul. 56-262). If a preschool is organized as a separate legal entity but is affiliated with a church, the preschool also may be exempt from Form 990-series filing requirements if it qualifies as an integrated auxiliary of the church under Regulations section 1.6033-2(h), or as a school below college level affiliated with a church under section 1.6033-2(g)(1)(vii). See Rev. Ruls. 73-430 and 78-446 regarding the "school" requirement. If the preschool is organized as a separate legal entity and does not meet either of the exceptions in Regulations sections 1.6033-2(h) or 1.6033-2(g)(1)(vii), then it will need to file Form 990 if its gross receipts for the 2008 tax year are \geq \$1 million or its assets at the end of the tax year are \geq \$2.5 million. If its assets and gross receipts are both below those thresholds and its gross receipts exceed \$25,000, then the preschool will need to file Form 990-EZ. If its gross receipts are normally \leq \$25,000, then the preschool may submit the Form 990-N (e-postcard), in lieu of Form 990 or Form 990-EZ, on www.irs.gov.

Question

What about churches who have unrelated business income? We used to file 990-T.

Answer

Churches with unrelated business income are still required to file Form 990-T if their gross annual income from unrelated trades or businesses exceeds \$1,000.

Question

Are all federally-recognized Tribes required to file Form 990 each year? If so, does it just cover assets and receipts of the Tribal Government and not the activities of the Tribe's for-profit entities?

Answer

A federally recognized tribe that exercises sovereign powers generally will not qualify for exemption as a charitable organization under Code section 501(c)(3) because the exercise of sovereign powers is not a charitable purpose as defined by Code section 501(c)(3). Therefore, the tribe will not be required to file Form 990. A federally recognized tribe, like a state government, is immune from state and federal income tax. Separately organized entities controlled by a tribe may qualify as tax-exempt organizations and be required to file Form 990, though they may be excepted from filing Form 990 under Rev. Proc. 95-48. Further information for tribal governments can be found at www.irs.gov/tribes.

Question

I belong to a local chapter of a military veterans organization, for banking purposes we have been using the tax ID number of the parent organization, no filing was ever made from the local chapter since the yearly funds collected by the dues, were spent for the membership needs, and yearly no earnings ever were over \$200. Is the local chapter required to file a 990? If so must they also apply for their own Fed ID #?

Answer

If the local chapter is a separate legal entity from the parent organization, then it should use its own Employer Identification Number (obtained by filing Form SS-4) for banking and other purposes, regardless of whether it must file Form 990. See Rev. Rul. 63-247 and Rev. Proc. 80-27. If the local chapter is not a separate legal entity but is a component part of the parent organization, then it has no filing requirement separate from that of the parent. If the local chapter is a separate legal entity, it has no separate Form 990-series filing requirement (except possibly Form 990-T if it has unrelated business taxable income) if it is part of a group exemption and is included in a group return filed by the parent organization. If the local chapter is not covered by a group exemption, then it may file Form 1024 to be recognized as tax-exempt, and it must annually file a Form 990-N, 990-EZ, or 990, as discussed above. Special rules apply if the local chapter is organized as a limited liability company and treated as a disregarded entity of the parent organization.

Question

Do Condo Associations have to file Form 990 in addition to Form 1120H?

Answer

Condominium and other homeowner associations that qualify for exemption under section 528 may elect on a year-to-year basis to be treated as a homeowners association under section 528 and file Form 1120-H in lieu of Form 1120. Only a homeowners association that is recognized as tax-exempt under section 501(c)(4) files Form 990 (or Form 990-EZ or 990-N), in which case it

does not file Form 1120 or 1120H. A condominium owners' association does not qualify for exemption under section 501(c)(4); see Rev. Rul. 74-17.

Question

What about small organizations like a "PTA". Do they need to be that detailed?

Answer

Many smaller organizations are eligible to file Form 990-N or 990-EZ, which are less detailed returns. Many PTAs are part of a group exemption, the parent of which could file a group return on behalf of some or all of its subordinates.

Question

What other reports do we need to submit for the new redesigned 990, especially for salaries and independent contractors? Does the IRS have a standardized form to report reconciliation between the two periods so that back up documentation can be uniformly submitted across the board? We normally submit audited financial statements as back up documentation to our form 990.

Answer

Audited financial statements or other backup documentation are not required to be submitted with the Form 990. The Form 990 has been redesigned to eliminate most unstructured attachments and to replace some of these attachments with schedules.

Question

Does the preparer signature block only relate to the financial aspects of the return or is the preparer going to need to be involved closely with all aspects of the organization in order to imply that everything is true and correct in signing the return?

Answer

The paid preparer's declaration in Part II of the Form 990 relates to the information throughout the return of which the paid preparer has any knowledge. Because the redesigned form is now primarily a programs/activities/governance report rather than a financial report, a preparer generally will need to obtain input from the filing organization's program staff, managers, and/or other officers and directors to gather all information needed to complete the Form.

Question

Please clarify the instructions to Part III, line, Mission. How frequently does the governing body need to adopt the mission statement?

Answer

An organization is not required to adopt a mission statement; if it has not adopted a statement, it may leave the line blank. A one-time adoption by the organization's governing body is sufficient to report the mission statement on Form 990 for each year the statement remains in effect.

Question

If you have payments to someone who would, except that they do not reach the thresholds on part IV of Schedule L, be reported on Schedule L – do you answer yes to question 28b on the core form (part IV) and make a note on schedule L that the payment is below the reporting threshold? Or would the answer to 28b be NO?

Answer

The answer would be "No." An organization is not required to answer "Yes" to a line in Form 990, Part IV and complete the schedule (or Part of a Schedule) to which the question is directed if the organization is not required to provide any information in the schedule (or part of the schedule). Thus, a minimum dollar threshold for reporting information in a Schedule may be relevant in determining whether the organization must answer "Yes" to a line in Form 990, Part IV.

Question

Regarding the governance issues on the new forms, if a organization has not yet adopted all of the new policies, i.e. conflict of interest, document retention, etc) prior to year end, however the policies are adopted prior to filing the 990, can the organization answer yes to the questions?

Answer

No, the organization must adopt a given policy by the end of its tax year to answer yes to a question asking whether the organization has such a policy (e.g., an organization with a fiscal year ending June 1 that did not adopt a conflicts of interest until July 1, then submitted its Form 990 on August 1, must answer "No" to Part VI, Question 12a) . However, the organization may explain in Schedule O that it adopted such policy or policies after the end of its tax year and before filing of the Form 990.

Question

I deal with trusts that have received exempt status from the IRS. A 990 is required. The trust document dictates where the money should go, a charitable org or in the case of scholarships a charity will tell the trust officer to whom the scholarships should be paid. In some cases the trust officer will meet with a board of a charitable org to discuss the operations of the trust, BUT the charity does not have authority over the principal of the trust their only interest is in the

income. In these cases, in regard to the questions pertaining to the board of directors....who is question referring to. The authority over the trust is the trust company. There will be Policy Changes, the trust officer will review and sign the trust tax return, etc. If the trust distributes income to a charity as required but makes not other specific distribution, do the 990 questions need to be asked of the directors of the org or can the trust officer answer them?

Answer

Form 990, Part VI, line 1 refers to the governing body of the tax-exempt organization that is filing the Form 990. In this case, that exempt organization is the trust, not the charity that the trust supports, so the filer would report in Part VI, line 1 the number of governing body members of the trust and the number of those members who are independent.

Question

In the situation where the filing tax exempt organization is a trust with a corporate trustee, how should the governance questions be answered? Typically there is not a governing board of the trust and the trust itself will not have various governance policies in place such as conflict of interest policies. Are the answers still to be given from the point of view of the trust (e.g. zero independent board members, zero board members in total, no conflict of interest policy, etc.)?

Answer

If a trust has a sole trustee that is a corporation, the questions in Form 990, Part VI must be answered with respect to the exempt organization trust, not the corporation. A corporate trustee may qualify as a member of the governing body, and as an independent member. If a corporate trustee is the sole trustee governing the trust, it would be the sole member of the governing body for purposes of Part VI, Question 1.

Question

Why did the IRS maintain the distinction between independent and non-independent voting members when many practitioners believe it presents misleading information to the casual reader?

Answer

The Form 990 distinction between independent and non-independent board members focuses on financial conflicts of interest. Such conflicts raise potential tax compliance issues, such as excess benefit transactions, inurement and private benefit. Also, the public has an interest in knowing the composition of the organization's governing body and the whether governing body members are independent. The organization may explain in Schedule O why it believes that its governing body members are independent, even if they are not regarded as independent under the Form 990 reporting standards.

Question

Does definition of family relationship include domestic partnerships?

Answer

The Form 990 Glossary defines “family relationships” as including a person’s spouse, ancestors, brothers and sisters, children, grandchildren, great-grandchildren, and spouses of brothers, sisters, children, grandchildren, and great-grandchildren.

Question

Part VI, line 9a, asks whether an organization has chapters, branches or affiliates. Can you please expand on and provide some examples of the types of organizations would be considered a chapter, branch, or affiliate for purposes of this disclosure?

Answer

One example is a group of organizations under the general supervision or control of a central or parent organization, including but not limited to the subsidiary organizations in a group exemption. Another example is a group of affiliated fraternal organizations exempt under section 501(c)(8) or (10) that operates under the lodge system. Chapters, branches, or affiliates may be organized as separate legal entities, or may be parts of the parent organization.

Question

Does the entire board need to have a copy of form 990 when large boards delegate to its finance committee the function of reviewing the 990, will this comply with answering the question that the board does review the 990?

Answer

To be able to answer “Yes” to Part VI, line 10, the organization must provide a copy of its Form 990 to each voting member of its governing body, no matter how large; provision only to the finance committee members does not suffice. Whether “Yes” or “No,” the organization must explain in Schedule O its process for reviewing the Form 990.

Question

Will the new 990 require that all directors be given the 990 to review before it is filed?

Answer

No. Part VI, line 10 asks whether a copy of the Form 990 was provided to all voting members of the organization’s governing body before it was filed, but does

not require the filing organization to do so. Regardless of whether the answer is yes or no, the filer must describe in Schedule O the process, if any, that it uses to review the Form 990.

Question

Can the Audit Committee that is delegated this authority by the Board review the 990 and could we then check yes to this question? Why does it have to be the full board?

Answer

Under federal tax law, the full Board is not required to review the final Form 990 prior to filing. If the organization provided the final Form 990 that it filed with the IRS only to its Audit Committee and not the full Board before filing the Form, however, the organization would need to answer "No" to Part VI, Question 10, and explain in Schedule O that the Audit Committee reviewed the Form 990 prior to filing.

Question

There is a new question in Part VI, question # 13 – "Does the organization have a whistleblower policy?" Does the IRS have a sample "Whistleblower Policy"?

Answer

The IRS has no sample whistleblower policy.

Question

Do you anticipate that the IRS will make available on its website sample "reasonable effort" questionnaires for each area indicated in the instructions?

Answer

We have no such plans at this time.

Question

Is it true that the new salary section will have to equal W-2 amounts which are on a calendar year even though the company reports are on a fiscal year?

Answer

Yes.

Question

I missed what your statement was on compensation. If you have a fiscal year filer which files a return as of 6/09 but you are reporting compensation on the 990

as of 12/31/08 is it ok that the w2 compensation does not tie back to the compensation that is reported on the return at 6/09

Answer

Yes. The compensation reported in Form 990, Part VII (and Schedule J), which must be reported for the calendar year ending with or within the filing organization's fiscal year, is not required to be reconciled with fiscal year compensation reported in Part IX. Statement of Functional Expenses.

Question

If one of these members (Officers, board member) earns Form 1099 income from the organization, do we still need to report this amount. If so, the compensation on the board member list will not tie into the functional expense line of the officers' compensation. Would it be ok?

Answer

That is OK. All compensation of listed persons, whether reported on Form W-2, Form 1099, or otherwise must be reported in Form 990, Part VII and Schedule J. Such amounts may not necessarily tie in to the Statement of Functional Expenses or particular lines in it.

Question

Our Executive Director is paid by the University as its VP for External Affairs. We do not have any payroll. How do we treat her on Part VII since she must do "both" positions.

Answer

Whether or not the Executive Director receives compensation from your organization, she is required to be reported in Part VII if she is one of the organization's officers, directors, trustees, key employees, or five highest compensated employees other than officers, directors, trustees, and key employees (taking into account compensation from both you and related organizations). If she is the organization's top management official or top financial official, then she must be reported as an officer. If the University is a related organization, then the organization would need to report the compensation paid by the University to your Executive Director in Part VII, and perhaps also in Schedule J.

Question

We are a non profit educational institution in Egypt. What are the members who should be considered Key Employees?

Answer

If the organization is required to file the Form 990, it would report as “key employees” any of its employees who meet all of the following three tests:

1. \$150,000 Test. The employee receives reportable (e.g., W-2) 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;
2. Responsibility Test. The employee has responsibilities, powers, or influence over the organization as a whole that is similar to those of officers, directors, or trustees, or manages or has authority over 10% or more of the organization’s activities, assets, income, expenses, capital expenditures, operating budget, or employee compensation; and
3. Top 20 Test. The employee satisfies tests 1&2 and is among the organization’s top 20 highest compensated employees, other than officers, directors, and trustees.

Question

Please provide more information on the 5 year lookback provision for compensation paid to former officers, directors or key employees. What type of compensation is included and would the lookback for future years be limited to those key employees, officers and directors listed on the 2008 return?

Answer

The determination as to whether a former person must be reported in Form 990, Part VII, Section A depends on the person’s reportable compensation from the filing organization and related organizations (e.g., parents, subsidiaries, brothers/sisters under common control, and supporting/supported organizations of the filing organization). “Reportable compensation” generally is that compensation reported in box 5 of Form W-2 for officers and employees, and box 7 of Form 1099-MISC for directors and trustees). In future years, the lookback likely will remain five years for officers, directors, trustees, key employees, and the five most highly compensated employees of the filing organization, and will not be limited to persons listed in Part VII of the 2008 return.

Question

Is reporting of deferred comp required twice (accrual year and vesting year)?

Answer

Deferred compensation generally must be reported twice in Form 990, in Part VII and Schedule J—in the year in which it is earned or accrued, and in the year in which it becomes taxable.

Question

There is a place to report "Expense Account and other allowances". In the instructions it says taxable and nontaxable benefits. The taxable benefits are already included in "compensation" (W-2 income) and the nontaxable items are under the Accountable Plan, which it says not to include. So what goes in "expense account and other allowances"?

Answer

The 2007 Form 990 divided executive compensation into three columns, including "expense account and other allowances", which includes certain taxable and nontaxable benefits. The 2008 Form 990 has overlapping but not identical columns in Part VII, Section A ("other compensation") and Schedule J, Part II ("nontaxable benefits"). In the 2008 Form 990, these amounts are by definition nontaxable benefits and may include such items as health benefits, child care benefits, education benefits, and housing and on-site meals provided for the benefit of the employer. The "expense account and other allowances" column also appears in the 2008 Form 990-EZ, and the same amounts as before may continue to be reported there if option 2 reporting is selected. If the organization that completes a Schedule J provided a discretionary spending or expense account to any of the persons it listed in Part VII, Section A, and if that account was not part of an accountable plan requiring substantiation of the business purpose of the expense, then the organization must explain the arrangement in Part III of Schedule J.

Question

How do some of the new requirements affect VEBA govern by a trust. Please address the officers uncompensated by the trust by compensated by the sponsor organization.

Answer

If the sponsoring organization is a related organization, then the VEBA would report compensation from that related organization to the VEBA's officers, directors, trustees, and key employees.

Question

We have been disclosing on Form 990 providers of "services", professional or otherwise, but have not been disclosing providers "goods" or "commodities." I have noticed that practices vary in this area and guidance is limited. My thought is that when the IRS expanded the disclosure beyond "Independent Contractors for Professional Services" to include "Independent Contractors of Other Services" they were more interested in, for example, janitorial services or landscape services more than Georgia Power or Aramark Food Services.

Answer

Part VII, Section B pertains to independent contractors that provide services. Some service providers may also provide goods, but should be included within the scope of Section B if they are primarily providing a service.

Question

How do and where on the new Form 990 do non-profit organizations record donations from outside sources which are material donations to be used as 'giveaways' during a drawing at an Annual Meeting?

Answer

Several parts of Form 990 require reporting of non-cash property contributions: Part VIII, line 1; Schedule A, Parts II and III, line 1; Schedule B, Part II; and Schedule M, column (c).

Question

Does the form 990 require tax-exempt recipients of noncash charitable contributions to report their fair market values (donors who deduct the value of such contributions from taxable income are required to have the fair market value established by a "Qualified Appraiser" using a "Qualified Appraisal")? If donees must report fair market values on the form 990, what are the requirements, if any, for performing the appraisals?

Answer

Several parts of Form 990 call for the value of non-cash property contributions as of the time of the donation, including Part VIII, line 1; line 1 of Schedule A, Parts II and III; Schedule B, Part II; and Schedule M, column (c). Exempt organizations are not required or expected to hire a qualified or expert appraiser for this purpose and may use any reasonable method to determine or estimate the value. Schedule B sets forth special instructions for valuing marketable securities.

Question

Prior 990 under Audited Financial Statements of Revenue there were a line item for Donated Services and use of Facilities. New Form 990 Statement of Revenue (Part VIII) replacement line item is now g Noncash

Answer

The reconciliation of the audited financial statements with the return's revenue and expense statements (Parts IV-A and IV-B of the 2007 Form 990) now appear in Schedule D, Parts XII and XIII. All of these parts have a line for donated services and use of facilities. Donated services and use of facilities may also be discussed in Part III, Statement of Program Service Accomplishments. They

may not be reported elsewhere on the Form 990 or its schedules. New line 1g of Part VIII is for reporting of noncash contributions, and is not a substitute for reporting of donated services or use of facilities.

Question

We are a 501c3 organization. We are an association of the United States Bowling Congress. We recently hosted the State Bowling Tournament. At this tournament we sold shirts and towels. How does this have to be reported on Form 990?

Answer

The sale of such items at an exempt function activity should be reported as program service revenue on line 2 of Part VIII, whether or not such sales constitute a related trade or business.

Question

The 503 project provides Affordable housing for the elderly through Section 8 rents received from HUD as well as the rents that the tenants pay according to their ability – Gross income of tenants. On Part 1, are these amounts to be shown as Program Service Revenues or as Gross Rents? The IRS on the phone told me to show the amount as Rents on Line 6 and the CPA community to show the amounts as Line 2 Program Service Revenue.

Answer

If the organization's exempt purposes include the provision of affordable housing to low-income or elderly persons, then the rental amounts should be reported as program service revenue on Form 990, Part VIII, line 2. See Rev. Proc. 96-32 and Rev. Ruls. 72-124 and 79-18 for guidelines on providing housing to low-income or elderly persons in a charitable manner.

Question

Will there be a specific area on Form 990 to report Mutual Fund income i.e. LT & ST Capital Gain distributions? (Not asset sales-LT/ST capital gains/losses)

Answer

Capital gains distributions from a mutual fund are reported on Part VIII, lines 7a and 7c (relating to sales of assets other than inventory). If the organization sells some or all of its shares in a mutual fund, the gain or loss is also reported on line 7. Dividend and interest income from securities held by a mutual fund is reportable on Part VIII, line 3 (investment income). See Pub. 564 for more information on mutual fund distributions.

Question

Most not-for-profit colleges and universities are on a July to June fiscal year. Our audits usually are done by November in time for the November 15 filing deadline. Will the new redesigned form 990 require/recommend for us to change our fiscal year to a calendar year accounting period?

Answer

An organization is expected to use a tax year based on its fiscal year used in keeping books and records, regardless of the fact that compensation in Part VII and Schedule J must be reported for the calendar year ending within the tax year.

Question

Is an entity that has an audit on a consolidated basis, but files a tax return separately for each entity considered to be an audited entity on a separate basis which causes them to have to file certain schedules?

Answer

No. In such case, the organization would answer "No" to Form 990, Part IV, line 12 and Part XI, lines 2a and 2b, and would not be required to file Schedule D, Parts XI-XIII (though it could voluntarily file Schedule D, Parts XI-XIII).

Question

I have technical question regarding the new Form 990 Schedule A, Public Charity Status and Public Support. Do revenues from raffles count as gross receipts from related activities on the Support Schedules, Part II, line 12 and Part III, line 2? The 2007 Form 990 Schedule A instructions specifically said "raffles" count as related income (previous line 17), however, the draft instructions for the 2008 Form 990 Schedule A discuss the 513 exceptions that apply for these lines, but do not specifically address raffles.

Has there been a change in how revenues from raffles are counted for public support purposes?

Answer

Revenues from raffles should not be reported on such lines in Schedule A of the 2008 Form 990 unless they are conducted with substantially all volunteer labor, or the prizes were received by the organization as gifts or contributions, or the raffle constitutes a qualified public entertainment activity or qualified convention or trade show activity.

Question

Is Sch. B supposed to be completed on the cash basis (as deductible by the donor), or on the basis the organization uses to prepare its financial statements?

Answer

The method of accounting used for Schedule B should be the same method as the filing organization checks in Part XI, line 1 and uses throughout the Form 990.

Question

Can you talk a little bit about the information land trusts will be required to provide regarding the conservation easements they hold?

Answer

Schedule D, Part II, and Schedule M, Part I, lines 13-14 focus on conservation easements.

Question

On Part IV-A and IV-B of the 990, are all non profits required to be audited even if they are small? If they are not audited, how should they answer these parts? On page 4 of the 990 "Net Assets or Fund Balances," how should organizations that don't follow SFAS 117 answer Part IV-A and IV-B?

Answer

Federal tax law does not require any exempt organization to have audited financial statements. If an organization obtains audited financial statements and files the Form 990, then the 2008 Form 990, Schedule D, Parts XI-XIII (2007 Form 990 Parts IV-A and IV-B) must be completed. Otherwise those parts should be left blank.

Question

We understand some of the schedules require that we submit information on a calendar year basis especially salaries, and vendor/contractor payments....We understand that you are suggesting us to use the W2 calendar salary information to identify the key employees, directors and over \$100k employees etc... in order to report them on the 990 Part 7 and schedule J and the 1099 information for independent contractors. However, our financial/accounting records report them under a fiscal year basis in the functional expense schedule. Are we required to perform some type of reconciliation for the expenses between the two periods, i.e. calendar vs. fiscal?

Answer

No. The only financial reconciliation required on the Form 990 is between a filer's audited financial statements prepared in accordance with GAAP and its revenues, expenses, and assets as reported on its Form 990. This reconciliation would be made in Schedule D, Parts XI-XIII.

Question

What line number would Unrealized Losses on Investments be reported in Schedule D - Part XII? If that section is not correct where would it be reported?

Answer

Unrealized losses on investments are reported as a negative amount on Schedule D, Part XI, line 4. Such losses should not be reported in Schedule D, Part XII.

Question

What is foreign activity?

Answer

For purposes of Schedule F, activities conducted outside the United States include grantmaking, fundraising, unrelated trade or business, program services, or maintaining offices, employees, or agents in particular regions outside the United States. Activities conducted outside the United States also include passive investments, other than financial accounts that are reported on Part V, lines 4a and 4b. The United States is defined as including U.S. possessions for this purpose.

Question

Is Schedule F required for offshore captives?

Answer

If the organization had in excess of \$10,000 in revenues or expenses in the tax year from or attributable to grantmaking, fundraising, business, and program service activities outside the U.S., then it is required to file Schedule F, Part I. If the filing organization meets this \$10,000 threshold, it must also report information from all off-shore investments on Schedule F, even if those investments are passive, unless such investments are reported on Part V, line 4B as having been reported on a Form TD F 90-22.1 filed by the organization. Ownership in a foreign company may also result in a Schedule R filing requirement.

Question

- Y has a contract that says he'll receive 50% of his current salary each year for 5 years when he retires.
- He hasn't received the distributions in 2008 yet.
- The plan is not funded.

Is he participating in a nonqualified retirement plan? When do you disclose – when you enter into the contract or when you receive the distributions?

If we have to answer yes, how do we complete Part III of Schedule J?

Answer

The organization must report the amount of deferred compensation that it and/or one of its related organizations provided under a retirement plan to one of its officers, directors, trustees, key employees, and/or five most highly compensated employees in Part VII, Section A, Column F, "Other Compensation."

If the organization is required to file Schedule J, it would report in Part II of Schedule J. the amount of deferred compensation earned or accrued during the year for each person listed in Part VII, Section A as "Deferred Compensation" (assuming that it is not taxable compensation at that time), and would report that compensation again on the Form 990 as "reportable compensation" when it becomes taxable in the future (with an offsetting amount reported in Schedule J, Part II, column (F)).

Whether a given retirement plan is a qualified or nonqualified plan depends on the facts and circumstances. The plan described in this question likely would be nonqualified. If a plan of the organization or one of its related organizations is nonqualified, and the organization is required to complete Schedule J, then the organization must list in Schedule J, Part III the persons listed in Part VII, Section A who participate in the plan, and the amounts under the plan that were accrued for them or paid to them during the tax year.

Question

Any changes to reporting deferred compensation?

Answer

In reporting executive compensation, the new Form 990 is like the old in that deferred compensation must be reported before it is taxable, funded, vested, or no longer subject to a substantial risk of forfeiture. Schedule J, Part I, line 4 asks about severance packages and supplemental nonqualified retirement plans. There are also more detailed instructions in the new Form 990 on how to report deferred compensation in Part VII and Schedule J. See Question 30.

Question

Will the form 990 force disclosure of private inurement transactions?

Answer

Form 990 has several questions intended to disclose inurement or similar transactions, such as questions on Schedule J and Schedule L.

Question

We have a bond issue from 2000. Does that exclude us from filling out this form?

Answer

A tax-exempt organization's bond issuance is not relevant to determining whether the organization is required to file Form 990. The bond issuance is only relevant to determining whether the organization needs to file Schedule K, Supplemental Information on Tax Exempt Bonds. Tax-exempt bonds (including refunding bonds) issued before January 1, 2003 are not required to be reported in Schedule K.

Question

Do loans made in ordinary course of business in credit union impair independence of member of board of directors?

Answer

No. Loans made to board members of a credit union on the same terms as offered to other members of the credit union are not reportable on Schedule L and thus are not considered to impair independence for purposes of Part VI, line 1b.

Question

Does the definition of "business relationship" in the glossary and in the instructions to Part VI, line 2 (which include an "ordinary course of business" exception) apply for purposes of Part IV, line 28 and Schedule L, Part IV (business transactions involving interested persons)?

Answer

No, the instructions to Part IV, line 28 and Schedule L, Part IV define a "business transaction" differently than how a "business relationship" is defined for purposes of Part VI, Question 2. For purposes of Schedule L, Part IV, a "business transaction" includes but is not limited to contracts of sale, lease, license, and performance of services, and also includes some joint ventures. Whereas business relationships between directors, trustees, officers, and key employees are reported in Part VI, Question 2, business transactions between the organization and interested persons are reported in Schedule L, Part IV. The ordinary course of business exception does not apply to business transactions reportable in Schedule L, Part IV. Various reporting thresholds do apply, however. For instance, the organization generally is not required to report transactions with an interested person for a dollar amount that did not exceed the greater of \$10,000 or 1% of the organization's total revenue for the organization's tax year. See the instructions to Schedule L, Part IV for more information.

Question

Are donated services required to be put on Schedule M?

Answer

Schedule M (Non-Cash Contributions) deals solely with contributions of property, not of services.

Question

Is schedule M required for 990EZ filers, too?

Answer

No.

Question

How many schedule O's can be filed? Can you continue to add schedule O pages to tell your story fully?

Answer

The organization can attach as many Schedule Os as needed on a paper-filed Form 990. The electronic Schedule O contains the equivalent of approximately 100 pages of text. Only one can be attached, but that should be sufficient for all but the most logorrheic filers.

Question

Is schedule O a part of 990 EZ?

Answer

No. However, Form 990-EZ when filed electronically can include a General Explanation Attachment which serves the same purpose.

Question

Could you explain what qualifies for "Related Organizations"?

Answer

Related organizations basically are organizations that stand in a parent/subsidiary relationship, brother/sister relationship, or supporting/supported organization relationship. Determination of these relationships depends on a definition of control that is set forth in the glossary and the Schedule R instructions.

Question

You mention that Form 990 is a public document. I know that I can obtain copies of Form 990 for past years at guidestar.org. Does the IRS also publish Form 990s? Are organizations required to publish them on their web sites?

Answer

The IRS provides a copy of a filed Form 990 to anyone who requests a copy of that form by filing Form 4506-A with the IRS. The IRS generally does not publish filed Forms 990 on the IRS web site. Forms 990 filed by political organizations are, however, published on the IRS web site. Organizations are required to make their last three Forms 990 public by some means, either by publishing them on the organizations' web sites or by providing copies to whomever requests such forms.

Question

How much of Form 990 and schedules is available to the general public?

Answer

Form 990 filers and the IRS must disclose all but the names, addresses, and other identifying information of contributors in Schedule B (except that political organizations must disclose them). The identifying information of such contributors may be disclosed by the filing organization, but not by the IRS.

Question

How soon after filing automatic extension can we file the 2nd 3-month extension? How soon after filing the 2nd 3-month extension will it take to hear back as to whether the 2nd extension has been granted? Our fiscal or plan year is July 1st through June 30th. Our audit is not completed until April of the following year, which means we have to file an amendment each year. So as oppose to filing an amendment, we would prefer to file the 2nd extension.

Answer

According the instructions to Form 8868, the second extension request cannot be filed until the organization has been granted an automatic 3-month extension on a previously filed Form 8868. The second request must include an adequate explanation why the return cannot be filed by the already extended due date.

Question

When filing the second extension for form 990, is the executive director authorized to sign or should this be signed by an officer of the Board.

Answer

An officer should sign Form 8868. An executive director might qualify as an officer if defined as such under the organization's organizing document, bylaws, or resolutions, consistent with state law.

Question

If I am filing amended Form 990s from prior years will I use the new or old form?

Answer

Use the form in effect for the year being amended (e.g., use the 2007 Form 990 for amendments to a 2007 Form 990).

Question

Will the new 990 have to be completed electronically by some organizations?

Answer

Yes, by any organization that files at least 250 returns of any type during the calendar year and has total assets of \$10 million or more at the end of the tax year. Other organizations are allowed--but not required--to file Form 990 electronically.

Question

When e-filing the new 990s, often attachments that are not required but which provide pertinent information can not be e-filed with the return. Is there a mechanism in place in which these attachments can be sent to the government and married up with the e-filed return? I have been told no by the government but a practitioner told me these attachments should be sent to Covington, Kentucky, Is this true?

Answer

No, such attachments would not be married up with the return.

Question

My paper-filing clients would want to use Word or Excel to prepare attachment information. Often, the attachments are prepared by the client, but then I complete the 990 pages and attach their statements intact. Will I have to re-type these into schedule O?

Answer

Some tax preparation software allows the user to import information from Word or Excel documents. If your software lacks this capability, we suggest you speak to the company selling it and tell them you would like to see this feature

implemented. In addition, it's dangerous to attach such documents to a return, since they can result in the disclosure of information that should be kept private, such as the SSNs of scholarship recipients.

Question

Has the service done any estimates for the time to complete the form for a small filer?

Answer

OMB makes estimates of the length of time to complete Form 990 and Form 990-EZ. These estimates are published at the end of the Specific Instructions, before the Glossary.

Question

Are there any changes on the horizon for the 990-PF? If so, has the IRS provided a time line?

Answer

The IRS may consider a revision of Form 990-PF in the future, but it is not currently doing so and there is no time line.