

WHY QUALITY IN THE PREPARATION AND REVIEW OF FORM 990 MATTERS

By Batts Morrison Wales & Lee

NONPROFIT ONPOINT™

Form **990**

Department of the Treasury
Internal Revenue Service

Return of Organization Exempt from Income Tax
Under section 501(c), 527, or 528(a)(1) of the Internal Revenue Code
▶ Do not enter social security numbers or other identifying numbers
▶ Go to www.irs.gov/Form990 for instructions and the latest information.

A For the 2017 calendar year, or tax year beginning

B Check if applicable:
 Address change
 Name change
 Initial return

C Name of organization
Doing business as
Number and street (or P.O. box if mail is not delivered to a street address)



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CERTIFIED PUBLIC ACCOUNTANTS®

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For a nonprofit organization required to file Form 990 with the Internal Revenue Service, no document the organization produces is likely to have more potential to affect the organization, its donors, and its other stakeholders than Form 990.

Form 990, the annual information return that must generally be filed by 501(c)(3) public charities (other than churches and certain church-related organizations), is a comprehensive public document used by the IRS to assess an organization's compliance with the law and is available to the public (via the IRS website).¹

Small nonprofits (those with annual revenues normally less than \$200,000 and assets less than \$500,000) are permitted to file a somewhat abbreviated version of Form 990 (Form 990-EZ), and very small organizations (those with annual revenues normally not more than \$50,000) must file a simple notice with the IRS electronically each year.

The Depth and Breadth of Form 990

In its current state, Form 990 (including the Schedule A required for 501(c)(3) organizations) is a 20-page form, with as many as 15 additional schedules that may be required to be included with Form 990, depending on the specific nature of the filing organization's activities. The IRS has estimated that Form 990 requires an estimated 107 hours per year for activities related to its completion (per the form's instructions).

In addition to requiring exhaustive financial information, Form 990 questions require organizations to disclose significant information about their governance procedures and policies, governing documents, relationships with their organizational leaders and with third parties, and much more.

Part I of Form 990 includes inquiries into the following:

- Number of independent voting members of the governing body
- Number of non-independent voting members of the governing body
- Number of employees
- Number of volunteers
- Total unrelated business income
- Revenue in the form of contributions and grants
- Program service revenue
- Investment income
- Expenses in the form of grants
- Benefits to or for members
- Salaries
- Fundraising fees

Part III of Form 990 asks the filing organization to describe its:

- Mission
- Largest (in terms of expenses) three "Program Service Accomplishments"
- Total expenses

Part VI of Form 990, entitled "Governance, Management, and Disclosure," is a detailed inquiry into the organization's governance and management.

Part VII of Form 990 requires reporting on:

- Compensation of officers

¹ Source: <https://apps.irs.gov/app/eos/>

- Compensation of directors
- Compensation of trustees
- Compensation of key employees
- Highest compensated employees
- Compensation of independent contractors

The following additional schedules may also apply, depending on the filing organization's activities:

Schedule B, Schedule of Contributors

Organizations use this schedule to provide information about the identity of their larger donors and the amounts of their contributions.

Schedule C, Political Campaign and Lobbying Activities

This schedule is used to furnish additional information on political campaign activities or lobbying activities.

Schedule D, Supplemental Financial Statements

Organizations use this schedule to provide required reporting of donor advised funds, conservation easements, certain art and museum collections, escrow accounts and custodial arrangements, endowment funds, and supplemental financial information.

Schedule E, Schools

Organizations use this schedule to report information on private schools.

Schedule F, Statement of Activities Outside the United States

Organizations use this schedule to provide information on their activities conducted outside the United States at any time during the tax year.

Schedule G, Supplemental Information Regarding Fundraising or Gaming Activities

Organizations use this schedule to report professional fundraising services, fundraising events, and gaming.

Schedule H, Hospitals

Hospital organizations use this schedule to provide information on the activities and policies of, and community benefit provided by, its hospital facilities and other non-hospital health care facilities that it operated during the tax year.

Schedule I, Grants and Other Assistance to Organizations, Governments, and Individuals in the United States

Organizations use this schedule to provide information on grants and other assistance made by the filing organization during the tax year to organizations, governments, and individuals in the United States.

Schedule J, Compensation Information

Organizations use this schedule to report compensation information for certain officers, directors, individual trustees, key employees, and highest compensated employees, and information on certain compensation practices.

Schedule K, Supplemental Information on Tax Exempt Bonds

Organizations use this schedule to provide certain information on their outstanding liabilities associated with tax-exempt bond issues.

Schedule L, Transactions With Interested Persons

Organizations use this schedule to provide information on certain financial transactions or arrangements between the organization and disqualified persons under section 4958 or other interested persons. This schedule is also used to determine whether a member of the organization's governing body is an independent member.

Schedule M, Noncash Contributions

Organizations use this schedule to report the types of noncash contributions received during the year and certain information regarding such contributions.

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

Organizations use this schedule to provide information relating to going out of existence or

disposing of more than 25 percent of their net assets through a contraction, sale, exchange, or other disposition.

Schedule O, Supplemental Information to Form 990 Organizations use this schedule to provide responses to specific questions, and to explain their operations or responses to various questions.

Schedule R, Related Organizations and Unrelated Partnerships

Organizations use this schedule to provide information on related organizations, on certain transactions with related organizations, and on certain unrelated partnerships through which they conduct significant activities.

To say that Form 990 requires detailed reporting about an organization's activities is a significant understatement.

Even the summary provided above does not begin to adequately describe the depth and breadth of the inquiries on Form 990.^[1]

The Purpose and Use of Form 990

The primary purpose of Form 990 is to report an organization's activities to the IRS in order to document the organization's compliance with applicable tax laws and to permit the IRS to evaluate the organization's reported activities. The IRS uses the information to assess the organization's compliance with applicable laws and to identify issues that may require further attention by the IRS.

Information provided by an organization on Form 990 may be the basis for an IRS inquiry or examination.

Form 990 is required to be made available for public inspection by the filing organization and by

the IRS. After redacting information not subject to public disclosure, the IRS publishes copies of all Forms 990 that it receives on its website.²

In addition to being used by the IRS as described above, information in Form 990 is used by a variety of other parties in multiple ways:

- The public and the media use Form 990 to access information about an organization's activities to form a perception of the organization. The perception developed can affect media coverage of the organization and giving decisions by the public. Typically, the media and members of the public have the highest level of interest in the Form 990 disclosures about compensation of the organization's leaders and business transactions with related parties.
- Charity "watchdog" groups use information in Form 990 to evaluate and rate nonprofit organizations. The most well-known example is Charity Navigator, an organization that rates 501(c)(3) charities using a "star" system based heavily on an organization's financial information and practices as described in Form 990. Grant funding organizations and donors are sometimes influenced by the ratings of charitable organizations by such watchdog groups.
- Nonprofit organizations that solicit contributions are often required to submit a copy of their annual Form 990 to state government officials in connection with state charitable solicitation registration. As a result, the Form 990 often becomes accessible to the public within the applicable state's records in addition to being publicly available through the IRS.

^[1] The summary description of Form 990 requirements is derived from information on the IRS website, www.irs.gov, and the report of the Commission on Accountability and Policy for Religious Organizations, issued December 2012, available at www.religiouspolicycommission.org.

² Source: <https://apps.irs.gov/app/eos/>

Form 990 Presents an Opportunity To Share Positive Information

The highly public nature of Form 990 provides filing organizations with free publicity – and therewith an opportunity to present positive information about the organization and its activities. Some of the questions in Form 990 present unique opportunities to share information about the organization's mission and purpose, the positive impact of its activities, and the effectiveness of its programs. Nonprofit organizations should use these opportunities well.

The Sobering Implications of Filing an Incorrect or Incomplete Form 990

Form 990 is signed by an organization's leader "under penalties of perjury."

Federal law allows the IRS to assess significant penalties on an organization and/or its leaders for providing incorrect or incomplete information in Form 990. Additionally, it is a federal criminal offense to knowingly submit false information on Form 990 to the Internal Revenue Service.

Given the expansive amount of information and the exhaustive number of questions on Form 990 and its related schedules, the potential for providing incorrect information is significant. If an organization does submit incorrect or incomplete information, it can be difficult in some cases to prove that the misstatement was unintentional.

When Form 990 is provided by an organization to state agencies in connection with charitable solicitation registration, state-level requirements for truthfulness typically apply. Most states have laws that prohibit an organization from providing false or misleading information in connection with fundraising solicitations made within the state. State government officials may apply such statutes to an organization soliciting funds in the state if the state learns that information in Form 990 submitted to the state is incorrect or incomplete.

Careful Preparation and Careful Review of Form 990 Are Warranted

Our firm takes seriously the responsibility to prepare an organization's Form 990 accurately. In doing so, we apply professional care. However, our ability to complete the return accurately depends heavily on the information and communication provided to us by the organization's leaders.

In preparing Form 990, our team requests extensive documentation and makes extensive inquiries of the organization.

For example, we must obtain the information necessary to complete the Form 990 along with all of the applicable schedules from the list provided above. That means we must address details about the organization's financial activities, compensation and benefits provided to its leaders, governance matters, policies, large contributions from donors, related organizations, related party transactions, conflicts of interest, foreign activities, grants, and a host of additional information. In making inquiries to the organization about these areas of activity, we often facilitate obtaining the information. For example, we provide our clients with sample communications for their use in polling their officers and directors about conflicts of interest or related party business transactions.

The information we receive is incorporated into Form 990 by the preparer on our team and is then reviewed by one or more of our tax practice leaders. While applying an appropriate level of professional quality to the process, we also apply processes to make the work as efficient as reasonably possible.

Once the return is prepared, it is critically important that the organization's leaders review the information in the return for accuracy and completeness. Best practices also dictate that a copy of Form 990 should be provided to the organization's board for review prior to filing with the IRS.

The Importance of Realistic Expectations

Given the expansive scope of Form 990, the significance of its use by the IRS and others, and the implications of submitting incorrect and incomplete information on the form, nonprofit leaders should carefully consider the quality of their Form 990 preparation and review process.

It is not a wise strategy to take or allow a tax practitioner to take inappropriate shortcuts in preparing Form 990 in order to reduce the cost of preparing it.

Even a cursory analysis of the depth and scope of the information in Form 990 should reveal that preparing and reviewing the form diligently cannot be a quick, simple process. And while the preparer of Form 990 should apply as much efficiency as is reasonably possible in the process, an organization should recognize preparation and review of Form 990 for the extensive process that it is – and have realistic expectations for the time and cost involved.

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