

## THE NEW FORM 990 FOR SECTION 501(C)(6) ORGANIZATIONS: INCREASING DISCLOSURES TO THE IRS AND SHARING MORE WITH THE PUBLIC

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When tax-exempt Section 501(c)(6) organizations file their next tax returns, they will discover a revised and expanded Form 990, *Return of Organization Exempt from Income Tax*. The changes are the first significant revisions to the form since 1979 and are designed by the Internal Revenue Service to increase transparency and accountability among tax-exempt organizations. The new IRS regulations require that Section 501(c)(6) business leagues and trade associations disclose information that previously was only required of Section 501(c)(3) organizations as well as additional information that is now required of most organizations exempt from tax under Section 501(a).

Initially, an organization may view the expanded Form 990 only as an increased burden and additional drain on its valuable time. However, because the tax returns are available for public inspection, a Section 501(c)(6) organization should also recognize the opportunity to “tell its story,” educate the public about its charitable purposes, and highlight the year’s success stories that have resulted from the organization’s hard work. An organization should keep in mind that the IRS is charged with collecting taxes. Being exempt from taxes is a special status that should not be taken for granted.

Beginning in tax year 2008, Section 501(c)(6) organizations that meet certain criteria will be required to file the new Form 990. For tax year 2008 returns (to be filed in 2009), the new Form 990 is required for organizations with greater than or equal to \$1,000,000 in gross receipts or \$2,500,000 in total assets. The thresholds decrease for tax years 2009 and 2010 during the transition period for the revised form. For tax year 2010 and following years, Form 990 will be required of organizations with greater than or equal to \$200,000 in gross receipts or \$500,000 in total assets. Organizations with gross receipts and total assets below these thresholds may file Form 990-EZ. If an organization normally has gross receipts of \$25,000 or less, it files Form 990-N, an electronic notice (e-postcard).

The new Form 990 is an 11-page form with eleven parts and sixteen schedules, while the previous form was nine pages with only two schedules. The revised and reorganized form eliminates or revises certain requirements of the former version, includes other information that was not previously required, and includes more opportunities for an organization to provide supplemental narratives. Among other changes, Part VI entitled *Governance, Management, and Disclosure* is expanded to require more detailed disclosures about how the organization is governed, its board composition and management structure, and executive compensation. Specifically, Form 990 inquires whether written policies are in place to ensure that voting independence is maintained and that conflicts of interest and self-dealing are avoided. An organization must state whether it keeps contemporaneous minutes of its board and committee meetings. The revised Form 990 also asks an organization to disclose whether it has adopted formal, written policies that address whistleblowers, document retention and destruction, compensation review and evaluation of joint ventures to ensure the organization maintains its exempt purposes.

The increased disclosure requirements of the revised Form 990 add another layer of complexity for association executives, but for those that choose to make the most of the situation, the new form provides another opportunity for the organization’s executives to speak to the public about what they do,

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who they help and how they operate. If the written policies contained in Part VI, which the IRS appears to encourage, have not been adopted, executives should consider how it reflects on their organization to report that such policies have not been adopted. Now may be an appropriate time for an organization to adopt or revise its governance policies. Like it or not, tax-exempt organizations are faced with a longer Form 990, and organizations are well served to seize the opportunity that the IRS has created and to promote their mission.