

IRS Releases New Form 990 for 2008 and Draft Instructions

June 30, 2008

For the first time in almost thirty years, the Internal Revenue Service has undertaken a major redesign of the Form 990 annual return filed by most tax-exempt organizations. The new Form 990, the draft instructions, and additional information about the redesign can be found at www.irs.gov/charities/index.html.

The new Form 990 goes into effect for tax years beginning in 2008 (returns filed in 2009), although smaller organizations may qualify to file Form 990-EZ during a three-year phase-in period, described below. **The current version of the Form 990 for the 2007 tax year (returns filed in 2008) will no longer be accepted beginning with the 2008 tax year.**

The new Form 990 consists of an eleven-page core form to be completed by all organizations and sixteen additional schedules to be filed depending on the type of organization and its activities. Important changes include the following:

- A new summary page, on which an organization must provide, among other information, a description of its mission or most significant activities and a reasonable estimate of the number of full-time and part-time volunteers who provided services to the organization during the reporting year.
- New disclosures regarding governance and management, including questions about the organization's governing body and whether the organization follows specific policies and procedures with respect to conflicts of interest, whistle blower protection, and document retention. **Organizations should review their governance and operating practices now, in preparation for answering these questions on the 2008 return.** Please contact us if we can provide assistance.
- More detailed reporting of executive compensation and relationships with other entities, including a new requirement for non-501(c)(3) organizations to report compensation of their highest-paid employees and contractors.
- Changes to the public support test calculation for public charities, including extending the rolling review period to five years and requiring the same method of accounting (whether cash or accrual) used in the rest of the return.

- Extensive new schedules for reporting political campaign and lobbying activities (Schedule C), activities outside of the United States (Schedule F), activities of hospitals (Schedule H), and supplemental information regarding financial statements (Schedule D), fundraising or gaming activities (Schedule G), tax-exempt bonds (Schedule K), and non-cash contributions (Schedule M). **Organizations need to ensure that they have adequate systems in place now to collect information needed to complete these new schedules.**

The IRS will phase in the new Form 990 over a three-year period by increasing filing thresholds for the Form 990-EZ to allow smaller organizations the option to file either the new Form 990 or the Form 990-EZ for the 2008 and 2009 tax years. For the 2008 tax year (returns filed in 2009), only organizations with gross receipts over \$1 million or total assets over \$2.5 million must file the new Form 990. For the 2009 tax year (returns filed in 2010), organizations with gross receipts over \$500,000 or total assets over \$1.25 million must file the new Form 990. Beginning with the 2010 tax year, the filing thresholds for Form 990-EZ will be set permanently at \$200,000 gross receipts and \$500,000 total assets.

For other tax-exempt organizations that do not file the Form 990 or 990-EZ, please note the following:

- **Form 990-PF (Private Foundations & Trusts):** The IRS has said there are no immediate plans to revise the Form 990-PF filed by private foundations and section 4947(a)(1) nonexempt charitable trusts treated as private foundations.
- **Form 990-N (Very Small Organizations):** For tax years beginning in 2007, a tax-exempt organization that does not generate sufficient annual gross revenues to trigger a Form 990 filing requirement (gross receipts normally under \$25,000) must instead submit an annual electronic filing with the IRS, called a Form 990-N or an “e-Postcard.” **An organization that fails to file e-Postcards (or a full Form 990 or 990-EZ information return) for *three consecutive years* will automatically lose its tax-exempt status.** The first e-Postcard for an organization on a calendar fiscal year is due May 15, 2008, and must be filed at <http://epostcard.form990.org>. Please note that, with limited exceptions, a Section 509(a)(3) supporting organization may not file the Form 990-N and instead must file a Form 990 or 990-EZ, even if its gross receipts are normally \$25,000 or less.

Please contact us if we can answer any questions regarding the new Form 990, the draft instructions, or your organization’s filing requirements.