



Legal Alert: Revised Form 990 for 2008 Tax Year is in Effect

Revised Form 990 in Effect. As you may know, the IRS made significant revisions to the Form 990, the annual report filed by most tax-exempt, not-for-profit organizations. The revised Form 990 is in effect for the 2008 tax year. [NOTE: Nonprofits with annual revenues between \$25,000 and \$1,000,000 and net assets less than \$2.5 million may file a Form 990-EZ for the 2008 tax year]. As you begin to gather information for your organization's Form 990 filing, please be aware of the major revisions related to the disclosure of:

- The number of independent members you have on your governing body. Independent members are generally those not receiving direct or indirect compensation from the organization. You will also need to disclose whether officers, directors, trustees or key employees have a family or business relationship with any other officer, director, trustee or key employee.
- Whether you delegated managerial duties to a management company or other person.
- Whether you have a conflict of interest policy; if so, whether your policy requires annual disclosure by officers, directors, trustees and key employees; and how is enforcement of your policy monitored.
- Whether you have a document retention policy, destruction policy, and whistleblower policy.
- Whether your process for determining compensation of your CEO or executive director and other key employees includes a review and approval by independent persons, comparability data, and evidence of deliberation and decision.
- Whether you invested or participated in a joint venture, and if so, whether you adopted a written policy with respect to joint ventures.
- Whether the organization's governing documents, conflict of interest policy, and financial statements are available to the public.
- Indicating whether each officer, director or trustee is compensated, and compensation information for the following individuals:
 - five highest compensated employees;

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- former officers or employees who received more than \$100,000; and
- former directors or trustees who received more than \$10,000.

- Additional governance information must be disclosed on Schedule L:
 - Part I requires information on excess benefit transactions;
 - Part II requires disclosure of loans made to current or former employees or other interested people;
 - Part III asks about grants or other assistance to employees or interested people; and
 - Part IV requires disclosure of business relationships (direct or indirect) and family relationships between the organization and its officers, directors, trustees and key employees.

The revised Instructions and Form 990 are available at <http://www.irs.gov/charities/article/0,,id=176637,00.html>. Previously released Legal Alerts concerning the revised Form 990 may be found on our website.

This alert is meant to provide general information only, not legal advice. Please contact Judith Moldover at Lawyers Alliance for New York at (212) 219-1800 x 250 or visit our website www.lawyersalliance.org for further information.