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Revised Form 990 for 2008 Tax Year

On December 20, 2007, the IRS published the new Form 990, the annual report filed by most tax-exempt, not-for-profit organizations. The revised Form 990 reflects the increasing complexity of the nonprofit sector and requires increased reporting of governance practices.

When must I use the revised Form 990?

The current Form 990 will be used for the 2007 tax year, which is filed during 2008. The revised Form 990 will be used for the 2008 tax year (filed in 2009); however, to ease the burden on smaller organizations, the IRS temporarily has established an adoption timeline that will allow some organizations to file the Form 990-EZ:

<i>Eligible for 990-EZ in:</i>	<i>If your annual gross receipts and assets are:</i>
2008 tax year (filed in 2009)	Annual revenues are between \$25,000 and \$1 million and net assets are less than \$2.5 million
2009 tax year (filed in 2010)	Annual revenues are between \$25,000 and \$500,000 and net assets are less than \$1.25 million
2009 tax year (filed in 2010)	Annual revenues are between \$50,000 and \$200,000 and net assets are less than \$500,000

Additionally, even smaller nonprofits are required to file the “E-postcard”, or Form 990-N. It is required for organizations with annual receipts under \$25,000 for tax years 2008 and 2009, and \$50,000 for 2010 and subsequent years.

What are the major changes to Form 990?

The revised Form 990 consists of an 11-page “core” plus 14 schedules. Every organization filing a Form 990 must complete the core form, but the specific schedules required depends on the organization’s activities. Lawyers Alliance highlights the most important changes to the Form 990 related to disclosure of governance issues. You should also consult with an accountant to review the financial reporting issues raised by the revised Form 990.

- The revised Form 990 begins with a summary page that includes an overview of the organization’s activities and governance, revenue, expenses, and net assets. It also requires the organization to list the number of employees earning \$100,000 or greater and the highest amount of compensation paid to any individual.
- Part VI includes the governance, management, and disclosure questions. While the instructions for the revised Form 990 have not yet been released, your organization should begin collecting information to facilitate responses to these new questions:

- How many independent members of your governing body do you have? (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.)
 - Have you delegated managerial duties to a management company or other person?
 - Do you have a conflict of interest policy? If so, does your policy require annual disclosure by officers, directors, trustees and key employees? How do you monitor enforcement of your policy?
 - Do you have a document retention policy, destruction policy, and whistleblower policy?
 - Does your process for determining compensation of your CEO or executive director and other key employees include a review and approval by independent persons, comparability data, and evidence of deliberation and decision?
 - Have you invested or participated in a joint venture? If so, have you adopted a written policy with respect to joint ventures?
 - Are the organization's governing documents, conflict of interest policy, and financial statements available to the public?
- Part VII includes disclosure of compensation information. In addition to listing each officer, director or trustee and indicating whether they are compensated, you must list compensation information for the following individuals:
 - Five highest compensated employees;
 - Former officers or employees who received more than \$100,000; and
 - Former directors or trustees who received more than \$10,000.
 - Additional governance information will 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 Form 990 is available at <http://www.irs.gov/charities/article/0,,id=176637,00.html>. Instructions for the revised Form 990 should be released in early 2008. ***This alert is meant to provide general information and not legal advice. Please contact Elizabeth Perez at (212) 219-1800 ext. 232 if you have questions about the new disclosure requirements.***

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