

## SPECIAL BULLETIN

### *2008 Form 990 Raises Questions for Filers*

The Research Department has received inquiries regarding the revised 2008 Form 990. Some of the questions under the new Part VI have given rise to concerns from multiemployer health plans, among others, about whether the organization has a:

- written conflict of interest policy,
- written whistleblower policy, or
- written document retention and destruction policy.

Plans have been concerned about the consequences if they do not have such policies. However, such policies are not required by the Internal Revenue Code and are not a violation subject to penalties, etc., pursuant to IRS FAQ 2, set forth in relevant part below:

**2. Are all the policies and practices described in Part VI required by the Internal Revenue Code? If not, what happens if an organization reports that it does not have such policies in place?**

In general, the policies and practices described in Part VI are not required by the Internal Revenue Code... The IRS will use the information reported in Part VI, along with other information reported on the form, to assess noncompliance and the risk of noncompliance with federal tax law for individual organizations and across the broader exempt sector.

The 11 FAQs regarding Part VI of the Form 990 are available from the IRS website at: [http://www.irs.gov/pub/irs-tege/partvi\\_faqs\\_tips\\_05\\_2009.pdf](http://www.irs.gov/pub/irs-tege/partvi_faqs_tips_05_2009.pdf).

#### **Who Files Form 990?**

The Form 990 is generally filed by organizations that are tax-exempt under Code Section 501(a), 501(c)(3) and 501(c) in general. Code Section 501(c) organizations include VEBA trusts under Code 501(c)(9). VEBA trusts are the tax exempt vehicle generally used by multiemployer health and welfare plans, among others.

The Form 990 is NOT filed by stock bonus, pension or profit-sharing trusts that qualify under Code Section 401. Those entities file a Form 5500 instead.

### **When is Form 990 Due?**

The Form 990 is due by the 15th day of the 5th month after the organization's accounting period ends (May 15th for a calendar year Plan). See the Form 990's instructions at page 6 for more information on *When, Where and How to File*. The 2008 Form 990, *Instructions and Schedules* are available from the IRS website at: <http://www.irs.gov/charities/article/0,,id=185561,00.html>.

A filer may obtain an automatic 3-month extension of time to file Form 990 by filing the Form 8868 on or before the Form 990 due date (May 15<sup>th</sup> for a calendar year Plan). Form 8868 is available at: <http://www.irs.gov/pub/irs-pdf/f8868.pdf>.

### **Summary of 2008 Form 990 Changes**

The following overview of the changes to the 2008 Form 990 is taken from the IRS' *What's New - Redesigned Form 990 and Instructions for 2008 tax year*, available at: [http://www.irs.gov/pub/irs-tege/990\\_whatsnew\\_purpose.pdf](http://www.irs.gov/pub/irs-tege/990_whatsnew_purpose.pdf).

***Overview and Major Changes.*** The Form 990 has been redesigned effective for 2008 tax years. The new form consists of an 11-page, 11-part core form that is required to be completed by all organizations that file the Form 990, and Schedules to be completed by those organizations that satisfy the applicable requirements for each Schedule. Some areas of major changes in reporting requirements include governance and compensation of officers, directors, trustees, key employees, and highest compensated employees. For example, Part VI, *Governance, Management, and Disclosure*, is a new section that asks questions about the organization's governance structure, policies and disclosure practices.

The following is an outline of the Parts of the core form and the new Schedules.

***Core Form.*** The core form is required to be completed by all organizations and consists of the following eleven Parts:

- Part I, *Summary*, provides certain important information about the organization's mission, activities and current and prior years' financial results;
- Part II, *Signature Block*, contains the signature of an organization's officer, and if applicable, paid preparer;
- Part III, *Statement of Program Service Accomplishments*, requires reporting of the organization's new, ongoing and discontinued exempt purpose achievements and related revenue and expenses;
- Part IV, *Checklist of Required Schedules*, to be used by the organization to determine which Schedules it must complete and file with the IRS as part of the Form 990;

- Part V, *Statements Regarding Other IRS Filings and Tax Compliance*, to be used by the organization to report its compliance with other federal tax reporting and substantiation requirements;
- Part VI, *Governance, Management and Disclosure*, requires information regarding the organization's governing body and management, policies and disclosure practices;
- Part VII, *Compensation of Officers, Directors, Trustees, Key Employees, Highest Compensated Employees and Independent Contractors*, to report compensation paid to such persons by the organization and its related organizations that is reported on Forms W-2 and 1099-MISC;
- Part VIII, *Statement of Revenue*, Part IX, *Statement of Functional Expenses*, and Part X, *Balance Sheet*, which comprise the organization's financial statements for federal tax reporting purposes; and
- Part XI, *Financial Statements and Reporting*, to report information regarding the organization's accounting methods and its compiled, reviewed or audited financial statements.

**Schedules.** The new Form 990 (2008) contains 16 Schedules. Each organization must complete Part IV, *Checklist of Required Schedules*, to determine those Schedules it must complete. These Schedules replace the prior form's schedules and most required attachments that previously had to be constructed and completed by the filing organization. A description of the Schedules is found at pages 2 and 3 of the "What's New" document.

**Instructions, Glossary and Appendices.** The Form 990 instructions also have been revised for 2008. The new instructions contain a sequencing list to help organizations determine the order in which to complete various portions of the form (see General Instruction C), a revised general and specific instructions for the core form and Schedules, and a glossary of key terms.

### **Additional Resources**

Two publications that may be of particular interest are:

- [Publication 4741](#) (990 Fact Sheet), *The New Form 990, What Tax-Exempt Organizations Need to Know*
- [Publication 4740](#), *New Form 990 Preparation Checklist*

Both of these publications and helpful aids and checklists are available at: <http://www.irs.gov/charities/article/0,,id=201398,00.html>

Online courses about the 2008 Form 990 are available at: <http://www.irs.gov/charities/article/0,,id=166625,00.html>

The IRS has made available filing tips for the 2008 Form 990 at: <http://www.irs.gov/charities/article/0,,id=208553,00.html>

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