

IRS FORM 990 WEBINAR

The New Reporting Requirements

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Agenda

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- Introduction and 990 Overview
- New for 2009 IRS Form 990 (for 12/31/09, 6/30/10 and 9/30/10)
- Governance Policies Refresher
- Lessons Learned



Link to Form 990 and Schedules

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- We recommend obtaining the Form 990 and related schedules, along with instructions for this seminar:
 - <http://www.irs.gov/charities/article/0,,id=218927,00.html>





Poll Question

990 Overview

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- Current Form 990 was issued in December 2007 for 2008 tax year and beyond.
- Purpose of revised Form 990:
 - Enhance transparency
 - Improve tax compliance
 - Minimize burden on filing organization
- Included phased-in approach of revisions through 2010.



Year Two: What's the Big Deal?

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- 990 vs. 990-EZ Filing Requirements
- Schedule H & Schedule K
- 2009 Form 990 Changes & Clarifications
- Uncertainties Remain



Form 990 vs. Form 990-EZ

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File Form 990-EZ for.....	If gross receipts are less than.....	& if total assets are less than.....
2008 (generally filed in 2009)	\$1,000,000	\$2,500,000
2009 (generally filed in 2010)	\$500,000	\$1,250,000
2010 & after	\$200,000	\$500,000



Form 990 vs. Form 990-EZ

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- Form 990-EZ
 - Four-page core form
 - Seven potential supplemental schedules
 - Few governance related questions
- Form 990
 - 12-page core form
 - 16 potential supplemental schedules
 - Many governance questions, several requiring “reasonable effort”



Form 990

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- Core Form
 - I – Summary
 - II – Signature Block
 - III – Statement of Program Service Accomplishments
 - IV – Checklist of Required Schedules
 - V – Statements Regarding Other IRS Filings and Tax Compliance
 - VI – Governance, Management and Disclosure
 - VII – Compensation of Officers, Directors, Trustees, Key Employees, Highest Compensated Employees, and Independent Contractors
 - VIII – Statement of Revenue
 - IX – Statement of Functional Expenses
 - X – Balance Sheet
 - XI – Financial Statements and Reporting



Form 990

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- Supplemental Schedules
 - A – Public Charity Status and Public Support
 - B – Schedule of Contributors
 - C – Political Campaign and Lobbying Activities
 - D – Supplemental Financial Statements
 - E – Schools
 - F – Statement of Activities Outside the United States
 - G – Supplemental Information Regarding Fundraising or Gaming Activities
 - H – Hospitals
 - I – Supplemental Information on Grants and Other Assistance to Organizations, Governments, and Individuals in the United States
 - J – Compensation Information
 - K – Supplemental Information on Tax-Exempt Bonds
 - L – Transactions with Interested Persons
 - M – Non-Cash Contributions
 - N – Liquidation, Termination, Dissolution, or Significant Disposition of Assets
 - O – Supplemental Information to Form 990
 - R – Related Organizations and Unrelated Partnerships



2009 Form 990 Changes

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- Core Form, Part III, Statement of Program Service Accomplishment
 - Report changes here rather than in a letter to IRS Exempt Organizations Determinations office. They no longer issue letters.
 - Consider breaking out three largest programs by expense if you have not in the past
 - Carefully review narratives from prior year



2009 Form 990 Changes

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- Core Form, Part IV, Checklist of Required Schedules
 - Line 11 – More detailed trigger questions for Schedule D
 - Added question about FIN 48 Footnote
 - Line 12A – Was organization included in consolidated, independent audited financial statements for tax year?
 - Many organizations will be able to answer this question yes that answered previous question 12
no



2009 Form 990 Changes

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- Core Form, Part IV, Checklist of Required Schedules (cont'd)
 - Line 28 – Simplified trigger questions for Schedule L
 - Line 38 – Did organization complete Schedule O & provide explanations in Schedule O for Part VI, lines 11 & 19?
 - Imperative to answer checklist questions correctly
 - IRS could assess failure-to-file penalties for failing to complete required schedule



2009 Form 990 Changes

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- Core Form, Part VI, Governance, Management & Disclosure
 - Line 4 – Report significant changes to organizational documents
 - Line 5 – Modified definition of material diversion
 - Lines 9 – 11 reordered
 - Line 11 split



2009 Form 990 Changes

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- Core Form, Part VI, Governance, Management & Disclosure (cont'd)
 - Line 18 – Only check box for “Another’s website” if you provide another party with copy of Form 990, 990-T or 1023/1024
 - 990 may be provided to board by email or portal
 - IRS continues to focus on governance





Poll Question

Governance Check Sheet

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- Released December, 2009
- Used by IRS agents to capture data about governance practices during examination
- Available for viewing on IRS website at http://www.irs.gov/pub/irs-tege/governance_check_sheet.pdf



Governance Check Sheet

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- Governing body & management
 - Mission
 - Bylaws
 - Level of engagement by board
- Compensation
 - Compensation determination process
- Organizational control
 - Family & business relationships



Governance Check Sheet

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- Conflict of interest
 - Require written disclosure of conflicts?
 - Policy adhered to?
- Financial oversight
 - Systems in place to ensure proper use of assets?
 - 990 review
 - Management letter
- Document retention
 - Written policy?
 - Policy adhered to?



2009 Form 990 Changes

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- Part VII, Compensation
 - Key employee clarifications
 - Report compensation from Form 1042-S, box 2, if individual is foreign person who received U.S. source income
 - Clarification on compensation paid by unrelated organizations, leased employees & common paymasters



2009 Form 990 Changes

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- Part VII, Compensation (cont'd)
 - Report employee deferrals to 401(k) & 403(b) plans in Part VII, columns (D) & (E) & in Schedule J, column B(i)
 - Uncertainties still remain after 2009 changes
 - Determination of who is listed
 - Management company & common paymaster arrangements still cause confusion



2009 Form 990 Changes

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- Core Form, Part VIII, Statement of Revenue
 - Lines 2 & 11 – Report business codes from Appendix J (derived from NAICS)
 - Clarification on reporting revenue from donated goods sold at auction
- Core Form, Part IX, Statement of Functional Expenses
 - Report information technology employees on lines 5 – 10
 - Report related depreciation/amortization on line 22
 - If preparing internally, consider mapping general ledger to group consistently with Form 990 line items



2009 Form 990 Changes

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- Part X, Balance Sheet
 - Line 5 – Clarifies that receivables from highest compensated employees should be reported
 - Line 12 – Report publicly traded stock in corporation that comprises more than 5% of total assets
- Part XI, Financial Statements & Reporting
 - Check boxes added to indicate consolidated audited financial statements were issued



2009 Form 990 Changes

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- Schedule A, Public Charity Status & Public Support
 - IRS does not update records on filer's public charity status based on change made on Schedule A
 - May want to consider formal determination in certain cases
 - Still find many organizations are not completing public support test correctly



2009 Form 990 Changes

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- Schedule B, Schedule of Contributors
 - Filer should identify donor, rather than reporting as anonymous, if identity is known
 - Names & addresses of donors are not required to be made available to public
 - Schedule B has been an issue for some organizations when conducting board review



2009 Form 990 Changes

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- Schedule D, Supplemental Financial Statements
 - Required to complete Part X, Other Liabilities, if financial statements included footnote addressing its liability for uncertain tax positions
 - Parts X – XIII are optional if filer is included in consolidated financial statements
 - Consider voluntary disclosure of Parts X - XIII



2009 Form 990 Changes

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- Schedule F, Statement of Activities Outside the United States
 - Part I – Explains types of activities & types of expenditures to be reported
 - Part III – Grants or assistance reported should also include amounts paid to U.S. individuals for foreign activity
 - May be difficult to track these expenses if no tracking mechanisms are in place



2009 Form 990 Changes

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- Schedule G, Supplemental Information Regarding Fundraising or Gaming Activities
 - Required to report food & beverage expenses & entertainment expenses relating to fundraising events
 - Only report that portion of gaming manager's compensation allocable to gaming management



2009 Form 990 Changes

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- Schedule G, Supplemental Information Regarding Fundraising or Gaming Activities (cont'd)
 - Educate development/fundraising personnel
 - Information can be difficult to gather after the fact
 - Consider state charitable solicitation registration requirements



2009 Form 990 Changes

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- Schedule H, Hospitals
 - Required to complete all parts
 - Additional guidance on reporting indirect interest in joint ventures
 - **Recommendation** – Do not wait to start on Schedule H! **Begin gathering data now**



2009 Form 990 Changes

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- Schedule H, Hospitals (cont'd)
 - Will be one of most widely viewed schedules
 - IRS will be required to review Schedule H for all hospitals in future
 - Consider other potential viewers
 - Congress
 - Attorney General
 - Taxing authorities
 - Other hospitals



2009 Form 990 Changes

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- Schedule H, Hospitals (cont'd)
 - Part I – Charity Care and Certain Other Community Benefits at Cost
 - Part II – Community Building Activities
 - Part III – Bad Debt, Medicare, & Collection Practices
 - Part IV – Management Companies and Joint Ventures
 - Part V – Facility Information
 - Part VI – Supplemental Information



2009 Form 990 Changes

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- Schedule J, Compensation Information
 - Part I, Line 9 – If filer paid or accrued amounts pursuant to a contract subject to initial contract exception, did organization also follow rebuttable presumption procedures?
 - Another widely viewed schedule
 - Focus on narratives to make sure unusual items are adequately explained



2009 Form 990 Changes

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- Schedule K, Supplemental Information on Tax-Exempt Bonds
 - All parts are required
 - **Recommendation** – consult with a qualified advisor
 - Many organizations are adopting internal bond compliance policies



2009 Form 990 Changes

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- Schedule K, Supplemental Information on Tax-Exempt Bonds
 - Purpose of the form is to report on compliance with tax exempt bond issuance requirements
 - Will be time consuming.
 - IRS believes there is significant noncompliance.



2009 Form 990 Changes

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- Schedule K, Supplemental Information on Tax-Exempt Bonds
 - Part I – Bond Issues – multiple entity filers report loan issue only once, either at parent level or at each separate filer, if allocated.
 - Part II – Proceeds
 - Part III – Private Business Use – quantify private use and beware of management or service contracts. **May need expert counsel to assist!**
 - Part IV – Arbitrage – IRS views this area to be an area of non-compliance.





Poll Question

2009 Form 990 Changes

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- Schedule L, Transactions With Interested Persons
 - Part III – Clarification on how colleges, universities, primary & secondary schools should report grants or scholarships to interested persons
 - Part IV – Report joint ventures with interested persons if organization has invest \$10,000 or more (cumulative)
 - Part IV – Governmental units & instrumentalities are not interested persons



2009 Form 990 Changes

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- Schedule L, Transactions With Interested Persons (cont'd)
 - “Reasonable effort”
 - Difficult to gather all information with many existing conflict of interest questionnaires



2009 Form 990 Changes

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- Schedule N, Liquidation, Termination, Dissolution or Significant Disposition of Assets
 - Report in Part I, rather than in a letter to EO Determinations
 - Consider consulting with internal or external legal counsel when completing Schedule N



2009 Form 990 Changes

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- Schedule O, Supplemental Information
 - Use Schedule O, not separate attachments, to respond to specific questions
 - Use separate attachment to explain late filing
 - Do not use social security numbers on Schedule O
 - Closely review narratives from 2008 to make necessary additions or deletions for 2009



2009 Form 990 Changes

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- Schedule R, Related Organizations
 - Clarification & new examples of control
 - Part II – Treat governmental units as tax-exempt organizations, if applicable
 - Confusion over completion of Part V



Recommendations for 2009

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- Learn from 2008 lessons
- Start early
- Develop detailed timeline
- Identify roles & hold personnel accountable
- Closely review governance & policy issues
- Focus on narratives
- Focus on new schedules



Other Recent Developments

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- Revocation of tax-exempt status for some that failed to file three consecutive years
- Interim Report on Colleges & Universities
- Hiring Incentives to Restore Employment (HIRE) Act
- *Patient Protection & Affordable Care Act and Health Care & Education Reconciliation Act of 2010*



Questions?



Thank you!

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