



MOSS ADAMS_{LLP}

*USD – Governance By
Popular Demand*

*Keeping You Legal: New
Federal & State Laws
Affecting Nonprofits*

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Federal Law and Reporting for TE Organizations

- IRS Announcement
 - Two Month Suspension of IRS e-File Operations
 - E-file system not available 1/1/12 – 2/29/12
 - Extension to 3/30/12 for orgs with due dates 1/17 or 2/15/12
 - File ext by original due date if need past 3/30/12
 - 990-N e-postcard not affected by suspension
 - Not extension of time to pay tax

Federal Law and Reporting for TE Organizations

Update on Capitol Hill

- Changes to WOTC credit, hiring unemployed or disabled veterans; will be immediately effective.
 - The income tax credit can be taken on the 941 this time around and not on a 990-T, which is great news for the TE community
- Smaller organizations whose status was revoked, user fee has been reduced to \$100 to reinstate and for retroactive reinstatement.
 - Only need to meet certain select criteria (not as cumbersome for smaller organizations); Notice 2011-43 on application process and letter.

Update on Capitol Hill

- IRS looking at what is a program-related investment vs. a jeopardizing investment.
- Additional Medicare tax - .9% employee share only.
 - Applies only after threshold, MFJ, \$250K, determination is made on the 1040. Employer withholds the additional if employee makes \$200K and above.
 - This will kick in 2013 (a lot of lead time is needed to prepare for this change).

Federal Law and Reporting for TE Organizations

Update on Capitol Hill

- Compensation – remember open to public inspection on 990 regardless if the organization has followed the rebuttable presumption guidelines.
 - An organization was not awarded a grant they applied for because of public perception that they were paying too much compensation to ODTKH.
- Publication 78 is being made electronic looking for ways to search more easily, hope to have ready by January.
 - Will give ability to go to three different places from one landing place.

Federal Law and Reporting for TE Organizations

Update on Capitol Hill

- Statute begins with the filing of the 990 and not the 990-T where organizations have filed a 990.
 - For example, NFP org filed a 990 for three years but never filed a 990-T to report UBIT. The statute began for both filings by filing the 990, therefore, only need to look back to open three years and not further.
- 990-T – open to public inspection but not currently on Guidestar. Form 4506-A is used to request a 990-T from the IRS.

Update on Capitol Hill

- UBTI cost allocations – need to be directly connected and have an approximate relationship to the activity to be put into expenses that then get allocated.
- On-campus hotel – UBIT for parents and family and others because competing with other hotels in the area. Only rooms for students met the convenience exception and were not UBIT.

Federal Law and Reporting for TE Organizations

Update on Capitol Hill Governance:

- Good, sound, independent board.
- Operations need to be transparent; use Schedule O for explanations.
- A 1023 submitted by an organization with sound governance practices will fly through the exemption process vs. being diverted to another level of review.
- Board review of 990 makes sense. Should be aware of what is on the 990. Audit not triggered if response on 990 “NO” in regards to whether the board is provided a copy before filing.
- Spousal travel – document reason the organization is paying for spouse if there is a business purpose.

Federal Law and Reporting for TE Organizations

Form 990 developments:

- Part VI, Section B, governance policies – what if a Committee approves and/or adopts policies? If Committee approved because the board delegated authority, can answer yes.
- Part VII - Reportable W-2 compensation needs to be from box 1 or box 5, whichever is greater.
- Part VII – deferred compensation and column F will be clarified in instructions.
- Schedule F – did you incur expenses or revenues greater than \$10K? For 2011, Part IV, line 14a must be completed if foreign investments valued at \$100K or greater.
- Grants and other assistance, Schedules F & I – definition will change to exclude certain payments by VEBA's and discounts on tuition by schools.
- Schedule R, Part IV, disclosure of split-interest trusts – only include the type vs. the name, address, etc... in order to protect donors privacy.

Federal Form 990

- To encourage transparency – the first page has been redesigned to provide a “snapshot” of the organization.
 - Brief description of the NFP’s mission and most significant activities
 - Number of voting members (and independent voting members)
 - Number of employees
 - Number of volunteers (estimate if necessary)
 - Gross/net Unrelated trade or business income
 - Two year comparison of total revenue, expense, assets, liabilities, and net assets.

Page 2, Part III – Statement of Program Service Accomplishments

- Mission statement – approved?
- New questions 2 & 3 which require explanations if answered yes:
 - Undertake a significant program not listed in last years 990;
 - Cease program or make significant changes to existing

Form 990 Governance

- The Governing Body is the group of persons authorized under state law to make governance decisions on behalf of the organization, and its shareholders or members.
- Part VI, Line 1 - Number of voting members at the end of the tax year / number of independent voting member?
 - **Reasonable efforts standard** to determine independent voting members
 - Annual questionnaire to meet standard, signed by person with title, dated, and contains all of the pertinent instructions and definitions.

Who is an independent voting member? All three of the following must apply:

- The member was not compensated as an officer or other employee of the org or a related organization;
- The member did not receive total compensation or other payments exceeding 10K for services provided as an independent contractor. Excludes reimbursement of expenses under an accountable plan or reasonable compensation for services as member of governing body; and
- The member and any family member receives benefits that would be reportable on Sch L (includes transaction with related organizations) i.e. excess benefits, loans, grants, business transactions.

Part VI, line 2 – Relationships among officers, etc.

- Did any officer, director, trustee, or key employee have a family or business relationship with any other officer director, trustee or key employee?
- Identify the persons and describe the relationship in Sch O (note can state “family relationship” or “business relationship”).
 - Family member / relationship – includes spouse, ancestors, brothers and sisters (whether whole or half blood), children (whether natural or adopted), grandchildren, great grandchildren and spouses of brothers, sisters, children, grandchildren, great grandchildren.

Part VI, line 2 – Relationships among officers, etc.

Business relationships include the following:

- One person is employed by the other, in which the other is trustee, director, officer, or key employee, or **>35%** owner;
- One person transacting business with the other directly or indirectly (other than in the ordinary course of business on same terms offered to general public); excess of \$10K for the year. Indirect where one person is associated as a trustee, director, officer, key employee or **> 35%** owner; and
- The two persons are each a director, trustee, officer, or **> 10%** owner in the same business or investment entity.
- Note – privileged relationship excepted (e.g. attorney/client).

Business transactions between organization and any person who was a current or former officer, director, trustee, or key employee:

- a. have a direct business relationship with the organization (other than as an officer, director, trustee, or employee), or an indirect business relationship through ownership of more than 35% in another entity.
- b. have a family member who had a direct or indirect business relationship with the organization (\$10K wages)?
- c. serve as an officer, director, trustee, key employee, partner, or member of an entity (or a shareholder of a professional corporation) doing business with the organization?

REASONABLE EFFORTS STANDARD - QUESTIONNAIRE

Part VI, line 3. Did the organization delegate control over management duties customarily performed by or under the direct supervision of officers, directors or trustees, or key employees to a management company or other person?

- If yes, explain in Schedule O
- Reason to examine management agreements

Examples of management duties include: hiring, firing, supervising personnel, planning or executing budgets or financial operations.

Management duties do not include: administrative services (i.e. payroll processing) that do not involve significant managerial decision-making.

Form 990 Governance

- Part VI, line 4. Did the organization make any significant changes to its organizational documents since the prior Form 990 was file?
 - Explain in Schedule O
- Part VI, line 5. Did the organization become aware during the year of a material diversion of the organization's assets?
 - Explain in Schedule O.
 - Material if amount exceeds the lesser of \$250K or 5% of the organization's gross receipts for its tax year or total assets as of the end of its tax year.

Part VI, Line 7. Does the organization contemporaneously document meetings of the governing body and **related committees** through preparation of minutes or other similar documentation?

- The answer should be yes.
- If no, explain in schedule O, the circumstances, process or changes to be made going forward.
- If Secretary of Board not available, consider using tape recorder or other options.
- Are committees, with authority to act on behalf of the governing body, documenting meetings? (Advisory Boards usually excluded).
- Contemporaneous – minutes approved by the later of 1) the next meeting of the governing body, or 2) 60 days after the meeting or written action.

Form 990 Policies

Part VI, Line 11. Was a copy of the Form 990 provided to the organization's governing body before it was filed?

- Yes, **ONLY** if a copy of the **final Form 990** (including required schedules), as filed with the IRS, was provided to **each voting member** (paper or electronic) prior to filing.
- All organizations must describe in Schedule O the process, if any, the organization uses to review the Form 990.
- Specifics required: who conducted the review, when they conducted it, and the extent of the review.
- The organization can consider using a board committee or audit committee to perform the review of the 990 as part of its process.

Form 990 Policies

Part VI, Line 12. Conflict of interest policy

Does the organization have a written conflict of interest policy?

Are ODTK required to **disclose annually** interests that could give rise to conflict?

Regularly and consistently **monitor and enforce** compliance with the policy?

If so, describe how this is done include:

- a) an explanation of which persons are covered under the policy;
- b) the level at which determinations of whether a conflict exist are made;
- c) the level at which actual conflicts are reviewed; and
- d) explain if any restrictions are imposed on a person with a conflict:

- Part VI. Other Policies/ Procedures
 - Line 13. Written whistleblower
 - Line 14. Document retention and destruction
 - Line 16. Joint venture arrangements

Form 990 Policies

- Part VI, Line 15. Compensation - Was there a review and approval by independent persons, use of comparability data, and contemporaneous substantiation of the deliberation and decision in determining compensation for:
 - CEO, Executive Director, or top management official
 - Other officers or key employees of the organization
- To answer yes, all of the above elements must have been done.
- If yes, describe the process in Schedule O, identify the office or positions, and provide the year the process was last done for such person.

- Part VI, line 18 – Disclosure
 - Indicate how the Forms 1023/1024, 990, and 990-T are available for public inspection?
 - Own website; another' s website; upon request?
- Part VI, line 19 – Public availability of other documents
 - Describe in Schedule O whether (and if so, how) the organization makes its governing documents, conflict of interest policy, and financial statements available to the public?
 - E.g. posting on website, providing copies on request, inspection at an office of org.
 - Note Federal tax law does not require that such documents be made available

Form 990 Policies/Procedures

- Other policies/procedure
- Triggers if related Schedule is required:
 - Sch F – monitor use of grants outside US
 - Sch I – monitor use of grant fund in US
 - Sch J – policy reimbursement of expenses; comp top official
 - Sch K – practices and procedures to ensure post-issuance compliance TE bonds.
 - Sch M – Gift acceptance Policy

- Three Major Themes:
 - Exempt Organizations (EO) Integrates
 - EO Supports and Collaborates
 - EO Invests
- EO Integrates
 - Combined Annual Wage Reporting
 - Reporting W-2 not filing 941
 - Form 990 showing officer comp but no W-2 or 941

- EO Integrates
 - Executive Compensation Compliance Initiative: Loans Project
 - Report from March 2007
 - Opened Loans Project with 200 compliance checks; 50 exams
 - Results of compliance checks – 169 examinations
 - » \$5.5M assessment excise taxes
 - » \$480K assessment employment taxes
 - » \$400K adjustments for income omitted on 1040
 - » 18 of 169 proposed revocation
 - Political Activity Compliance Initiative
 - EO updated Publication 1828, Guide for Churches and Religious Orgs
 - Examined >250 orgs based on allegations of political activity during federal election years

- EO Supports and Collaborates
 - Support IRS Initiatives – Impact of legislation
 - International Focus
 - Concern charitable assets diverted internationally for non-charitable purposes
 - Exploring:
 - » Foreign Orgs receiving IRS recognition for exemption from US tax
 - » Charities reporting foreign addresses on Forms 990
 - » Large private foundations with international operations or transactions
 - » Noncash valuation issues going to foreign organizations
 - National Research Program – Study of Employment Tax returns
 - Measure compliance
 - Worker classification (independent contractor)
 - Fringe benefits; officer comp, reimbursements, nonfilers

- EO Supports and Collaborates
 - Gaming Non-Filer Project
 - Cross reference Form 990 with state gaming regulatory tax agencies
 - Conducting gaming activity not filing 990
 - 1,300 delinquent returns
 - EO Invests
 - Controlling orgs (PPA 2006 changes study)
 - Charitable Spending Initiative (study to learn more)
 - Sources /uses of funds
 - High level fundraising expenses
 - UBIT – low levels program service expenditures
 - Officer compensation ratio to program expenses
 - 30 org examined – UBIT and compensation

- EO Invests
 - Form 990-N Mis-filers
 - Form 990 as a Compliance Tool
 - IRS primary tool to increase transparency and promote and enforce compliance with Federal tax law.
 - Identify non-compliant orgs for examination
 - Develop compliance projects, inform and educational efforts
 - Governance
 - IRS Examinations use of check sheet to capture governance practices and internal controls

- Independent Contractor Voluntary Worker Classification Settlement Program (IR 2011-95; 9/21/11)
 - VCSP allows employers to get into compliance by making minimal payment covering past payroll tax obligations
 - Don't wait for a Payroll Exam!
 - Correction to treatment of employees vs. independent contractors
 - Prospective reclassification
 - Pay 10% of employment tax for most recent tax year
 - No interest or penalties
 - No audit on payroll taxes for these workers for prior years
 - Subject to 6 year statues for first three years in program

- Independent Contractor Voluntary Worker Classification Settlement Program (IR 2011-95; 9/21/11)
 - To be eligible, an applicant must:
 - Consistently have treated the workers in the past as nonemployees,
 - Have filed all required Forms 1099 for the workers for the previous three years
 - Not currently be under audit by the IRS
 - Not currently be under audit by DOL or state agency about classification
 - Apply for program using Form 8952, Application for Voluntary Classification Settlement Program at least 60 days before treating the workers as employees

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Governance Check Sheet

This check sheet is to be used by EO Revenue Agents in the examination of I.R.C. 501(c)(3) public charities. Please complete all parts of this check sheet.

Part 1 - Revenue Agent and Exempt Organization Information

1. Agent Name	<input type="text"/>	Group Number	<input type="text"/>
2. Organization Name	<input type="text"/>		
3. EIN	<input type="text"/>		
4. Tax Period(s) Examined	<input type="text"/>	<input type="text"/>	<input type="text"/>
5. Form Being Examined	<input type="text"/>		
6. Foundation Code	<input type="text"/>		

Part 2 - Governing Body and Management

7. Does the organization have a written mission statement that articulates its current I.R.C. § 501(c)(3) purpose(s)? Select one of the options.

8. Do the organization's bylaws set forth the following information for the members of the governing body and the organization's officers? Select one of the options from each of the drop down boxes.
Composition Duties Qualifications Voting Rights

9. Have copies of the most recent versions of the organization's articles and bylaws been provided to the following? Select all that apply.
 All Board Members Only Voting Board Members General Public (by request) General Public (online) Not Provided

10. At the beginning of the primary year under examination, what was the number of board members with voting rights? Enter a whole number.

11a. How often did a quorum of voting board members meet during the primary year under examination? Enter a whole number.

11b. How often did the full board meet during the primary year under examination? Select one of the options.

12. Did the number of meetings referred in 11a and 11b meet or exceed the meeting requirements set forth in the organization's bylaws? Select one of the options.

Part 3 - Compensation

13. Are compensation arrangements for all officers, directors, trustees, and key employees approved in advance by an authorized body of the organization composed of individuals with no conflict of interest with respect to the compensation arrangement? Select one of the options.

14a. Does the authorized body rely upon comparability data in making compensation determinations? Select one of the options.

14b. If "Always" or "Sometimes" for 14a, select the comparability data considered by the organization? Select all that apply.
 Exempt Organizations Non-Profit Entities Not Exempt From Tax Governmental Entities For-Profit Entities Other

14c. If the "Other" box is checked for 14b, provide a brief explanation of the other source.

15. Is the basis for all compensation determinations contemporaneously documented. Select one of the options.

Part 4 - Organizational Control

16a. Did any of the organization's voting board members have a family relationship and/or outside business relationship with any other voting or non-voting board member, officer, director, trustee, or key employee? Select one of the options.

16b. If YES to 16a, list the number of relationships between the officers, directors, trustees, or key employees.

16c. Number with Family Relationships Number with Business Relationships Number with Both Relationships
Total Number of Relationships (should equal the amount listed in 16b)

17. Does effective control of the organization rest with a single or select few individuals? Select one of the options.

Part 5 - Conflict of Interest

18a. Does the organization have a written conflict of interest policy? Select one of the options.

18b. If **YES** to 18a, does the policy address recusals? Select one of the options.

18c. If **YES** to 18a, does the policy require annual written disclosures of conflicts of interest? Select one of the options.

18d. If **YES** to 18a, during the primary year under examination, if any actual or potential conflicts of interest were disclosed, was the organization's conflict of interest policy adhered to? Select one of the options.

Part 6 - Financial Oversight

19. Are there systems or procedures in place intended to make sure assets are properly used, consistent with the organization's mission? Select one of the options.

20a. How often did the organization provide board members with written reports of the organization's financial activities? Select one of the options.

20b. How often did the board discuss/consider reports of the organization's financial activities? Select one of the options.

21. Prior to filing, was the Form 990 reviewed by the full board and/or a designated committee? Select one of the options.

22a. During the primary year under examination, was an independent accountant's report prepared? Select one of the options.

22b. If **YES** to 22a, was the accountant's report discussed/considered by the full board and/or a designated committee? Select one of the options.

23a. Was a management letter prepared by the independent accountant? Select one of the options.

23b. If **YES** to 23a, was the management letter reviewed by the full board and/or a designated committee? Select one of the options.

23c. If **YES** to 23a, did the organization adopt any of the recommendations contained in the management letter? Select one of the options.

Part 7 - Document Retention

24a. Does the organization have a written policy for document retention and destruction? Select one of the options.

24b. If **YES** to 24a, does the organization adhere to its written policy for document retention and destruction? Select one of the options.

25. Does the board contemporaneously document its meetings and retain this documentation? Select one of the options.

26. Was your examination hindered by a lack of necessary documentation? Select one of the options.

Part 8 - Disposition

27. Examination Disposal Code for Primary Return

28. Principal Issue Codes for Primary Return

First Issue

Second Issue

Third Issue

Fourth Issue

**SAMPLE
ANNUAL FORM 990 QUESTIONNAIRE
(RELATIONSHIPS/TRANSACTIONS/INDEPENDENCE)**

The IRS has released a redesigned Form 990 that must be filed by the Organization beginning with its 2008 fiscal year. The new Form 990 incorporates many new questions and supplemental schedules, some of which require the organization to make a *reasonable effort* to obtain the information before completing the Form 990. The Form 990 instructions state the organization will have made a *reasonable effort* if a questionnaire is completed annually by all officers, directors, trustees and key employees.

The Form 990 instructions require the questionnaire to include the pertinent instructions and definitions for the corresponding line item. Items in ***bold italics*** are further explained and defined at the end of the questionnaire, in the section titled "instructions and definitions".

The following document is a sample questionnaire and is provided as a starting point to assist nonprofits in developing their own questionnaire after reviewing the instructions for the Form 990 and consulting with an accountant.

SECTION 1 – INDEPENDENCE

Page 6, Part VI, line 1b of the Form 990 instructs the organization to enter the number of voting members of the governing body who are ***independent***.

After reviewing the requirements for independence in the "instructions and definitions" section of the questionnaire, answer the following question:

- I am aware of no transactions undertaken by myself or my family members or entities affiliated with myself or my family members during the year that would impair my independence with respect to the <insert organization name>.

- I am aware of the following transactions undertaken by myself or my family members or entities affiliated with myself or my family members during the year that would impair my independence with respect to the <insert organization name>:

Describe the transaction(s) detailing individual/entity engaging in the transaction, amount of transaction, and identify other party to the transaction (<insert organization name>)	Relationship of individual/entity engaging in the transaction (self, spouse, 35% controlled entity, etc.)

SECTION 2 – RELATIONSHIPS

Page 6, Part VI, Line 2 asks “Did any officer, director, trustee, or key employee have a **family relationship** or a **business relationship** with any other officer, director, trustee, or key employee?”

After reviewing the definitions included in the “instructions and definitions” section of the questionnaire, identify any **family** or **business relationships** that you had with any of the individuals listed on Exhibit A.

- I have no family relationship with any of the individuals listed on Exhibit A.
- I have no business relationship with any of the individuals listed on Exhibit A.
- I certify I have only the family or business relationships noted below:

Name of Other Individual(s)	Type of Relationship (family or business)	Only if the business relationship comes from common ownership of a business or investment entity, name the common entity and denote your individual and family members' ownership percentages

SECTION 3 – GRANTS OR ASSISTANCE

Page 3, Part IV, Line 27 asks “Did the organization provide a **grant or other assistance** to an officer, director, trustee, key employee, or substantial contributor, or to a person related to such an individual? If “yes”, complete Schedule L, Part III

After reviewing the definitions included in the “instructions and definitions” section of the questionnaire, confirm whether or not any **grant or assistance** was provided to you or your family members or related entities.

1. Was any grant or assistance provided to you by <insert organization name> during 2008?

Yes

No

2. Do you have any knowledge that there was or may have been any grant or assistance provided by <insert organization name> to one of your family members or an entity in which you or any of your family members owns more than a 35% interest?

Yes

No

If the answer to question 1 or 2 is yes, provide the following details about the grant or assistance provided:

Name each party for whom you are aware received a grant or assistance	Relationship of party to you (self, spouse, 35% controlled entity, etc.)

SECTION 4 – BUSINESS TRANSACTIONS

Page 4, Part IV, Lines 28a and 28b, ask “During the tax year, did any person who is a current or former officer, director, trustee, or key employee:

- a. Have a direct business relationship with the organization (other than as an officer, director, trustee, or employee), or an indirect business relationship through ownership of more than 35% in another entity (individually or collectively with another person(s).....If “yes”, complete Schedule L, Part IV.
- b. Have a family member who had a direct or indirect business relationship with the organization? If “yes”, complete Schedule L, Part IV.

After reviewing the definitions included in the “instructions and definitions” section of the questionnaire, answer the following question regarding *business transactions* with the organization:

- I am aware of no business transactions undertaken between my family members or entities affiliated with myself or my family members and the <insert organization name> during the year that exceed the reporting thresholds described in the “instructions and definitions” section of the questionnaire.
- The only business transactions undertaken between my family members or entities affiliated with myself or my family members and the <insert organization name> during the year that exceed the reporting thresholds described in the “instructions and definitions” section of the questionnaire that I am aware of are as follows:

Describe the transaction(s) detailing individual/entity engaging in the transaction, amount of transaction, and identify other party to the transaction (<insert organization name>). Attach a separate page if additional space is necessary.

ACKNOWLEDGMENT AND SIGNATURE

To the best of my knowledge and belief, the above information is true and accurate.

Signature

Date

Printed Name

Title

INSTRUCTIONS AND DEFINITIONS

SECTION 1 – INDEPENDENCE

A member of the governing body is considered “independent” only if all three of the following circumstances applied at all times during the organization’s tax year.

1. The member was not compensated as an officer or other employee of the organization or of a related organization.
2. The member did not receive total compensation or other payments exceeding \$10,000 during the organization’s tax year from the organization or from related organizations as an independent contractor, other than reimbursement of expenses under an accountable plan or reasonable compensation for services provided in the capacity as a member of the governing body.
3. Neither the member, nor any family member of the member, was involved in a transaction with the organization (whether directly or indirectly through affiliation with another organization) that is required to be reported on Schedule L (Form 990) for the organization’s tax year. Transactions reported on Schedule L include excess benefit transactions, loans to and from interested persons, grants or assistance benefiting interested persons, and business transactions involving interested persons.

SECTION 2 – RELATIONSHIPS

Family relationships include:

- Your legal spouse
- Your ancestors (this category does not include step-parents/grandparents)
- Your children (biological or adopted) and their legal spouses
- Your grandchildren and great-grandchildren and their legal spouses
- Your siblings (whether by whole or half blood) and their legal spouses

Business relationships include:

- One person is employed by the other in a sole proprietorship or by an organization with which the other is associated as a trustee, director, officer, key employee, or greater-than-35% owner.
- One person is transacting business with the other (other than in the ordinary course of either party’s business on the same terms as are generally offered to the public), directly or indirectly, in one or more contracts of sale, lease, license, loan, performance of services, or other transaction involving transfers of cash or property valued in excess of \$10,000 in the aggregate during the organization’s tax year. (Indirect transactions are transactions with an organization with which the one person is associated as a trustee, director, officer, key employee, or greater-than-35% owner).

- The two persons are each a director, trustee, officer, or greater than 10% owner in the same business or investment entity.

Ownership is measured by stock ownership (either voting power or value) of a corporation, profits or capital interest in a partnership or limited liability company, membership interest in a nonprofit organization, or beneficial interest in a trust. Ownership includes indirect ownership (for example, ownership in an entity that has ownership in the entity in question); there may be ownership through multiple tiers of entities.

Privileged relationship exception. A “business relationship” does not include a relationship between an attorney and client, a medical professional (including psychologist) and patient, or a priest/clergy and penitent/communicant.

SECTION 3 – GRANTS OR ASSISTANCE

The term “grant or other assistance” includes cash or non-cash grants, scholarships, fellowships, internships, prizes and awards, as well as the provision of goods, services, or use of facilities. A grant also includes any transaction in which you purchased goods or services from the Foundation for less than their fair market value.

SECTION 4 – BUSINESS TRANSACTIONS

Business Transactions include but are not limited to contracts of sale, lease, license, and performance of services, whether initiated during the organization’s tax year or ongoing from a prior year. Business transactions also include joint ventures, whether new or ongoing, in which either the profits or capital interest of the organization and of the interested person each exceeds 10%. The organization’s charging of membership dues to its officers, directors, etc. are not considered business transactions for purposes of this form.

Reportable Business Transactions include:

- Compensation of one’s family member by the <insert organization name> (whether as an employee or in providing independent contractor services) in an amount greater than \$10,000 during the course of the year beginning January 1, 2008 and ending December 31, 2008. Reimbursement of expenses under an accountable plan, expenses separately itemized in billing for providing independent contractor services, and reasonable compensation for services provided in the capacity as a member of the governing body do not constitute compensation.
- Family members, or entities affiliated with you or your family member(s), that had engaged in a business transaction in an amount greater than \$10,000 OR whose business transactions in the year in the aggregate are greater than \$100,000. Identify any family member or any entity (other than Section 501c tax-exempt organizations) of which you or a family member was serving (at the time of the transaction(s)) as a director/trustee, officer, key employee, or in which you or your family members together had a greater than 5% partnership/membership or shareholder interest (in the case of an entity taxed as a partnership or a professional corporation, respectively), or an entity more than 35% owned by yourself or your family member, *which engaged in any one business transaction with <insert organization name> in amount greater than \$10,000 or whose aggregate business transactions with <insert organization name> were greater than \$100,000.*

EXHIBIT A

With respect to 2008 Form 990 Reporting

The following is a list of individuals who are anticipated as being reported on the Form 990 as having been a current or former Trustee/Director, Officer or Key Employee of <insert organization name>.

Name	Title
	President and CEO
	Chairman
	Vice-Chairman
	Secretary
	Treasurer
	Director
	Director
	Director
	Director
	Director
	Director
	Director
	Director
	Director
	Director
	Director

**SCHEDULE F
(Form 990)**

Statement of Activities Outside the United States

OMB No. 1545-0047

2010

**Open to Public
Inspection**

Department of the Treasury
Internal Revenue Service

▶ **Complete if the organization answered "Yes" to Form 990,
Part IV, line 14b, 15, or 16.**

▶ **Attach to Form 990. ▶ See separate instructions.**

Name of the organization

Employer identification number

Part I General Information on Activities Outside the United States. Complete if the organization answered "Yes" to Form 990, Part IV, line 14b.

1 For grantmakers. Does the organization maintain records to substantiate the amount of the grants or assistance, the grantees' eligibility for the grants or assistance, and the selection criteria used to award the grants or assistance? **Yes** **No**

2 For grantmakers. Describe in Part V the organization's procedures for monitoring the use of grant funds outside the United States.

3 Activities per Region. (The following Part I, line 3 table can be duplicated if additional space is needed.)

(a) Region	(b) Number of offices in the region	(c) Number of employees, agents, and independent contractors in region	(d) Activities conducted in region (by type) (e.g., fundraising, program services, investments, grants to recipients located in the region)	(e) If activity listed in (d) is a program service, describe specific type of service(s) in region	(f) Total expenditures for and investments in region
(1)					
(2)					
(3)					
(4)					
(5)					
(6)					
(7)					
(8)					
(9)					
(10)					
(11)					
(12)					
(13)					
(14)					
(15)					
(16)					
(17)					
3a Sub-total					
b Total from continuation sheets to Part I					
c Totals (add lines 3a and 3b)					

Part II Grants and Other Assistance to Organizations or Entities Outside the United States. Complete if the organization answered "Yes" to Form 990, Part IV, line 15, for any recipient who received more than \$5,000. Check this box if no one recipient received more than \$5,000
 Part II can be duplicated if additional space is needed.

1 (a) Name of organization	(b) IRS code section and EIN (if applicable)	(c) Region	(d) Purpose of grant	(e) Amount of cash grant	(f) Manner of cash disbursement	(g) Amount of non-cash assistance	(h) Description of non-cash assistance	(i) Method of valuation (book, FMV, appraisal, other)
(1)								
(2)								
(3)								
(4)								
(5)								
(6)								
(7)								
(8)								
(9)								
(10)								
(11)								
(12)								
(13)								
(14)								
(15)								
(16)								

2 Enter total number of recipient organizations listed above that are recognized as charities by the foreign country, recognized as tax-exempt by the IRS, or for which the grantee or counsel has provided a section 501(c)(3) equivalency letter

3 Enter total number of other organizations or entities

Part III **Grants and Other Assistance to Individuals Outside the United States.** Complete if the organization answered "Yes" to Form 990, Part IV, line 16.
 Part III can be duplicated if additional space is needed.

(a) Type of grant or assistance	(b) Region	(c) Number of recipients	(d) Amount of cash grant	(e) Manner of cash disbursement	(f) Amount of non-cash assistance	(g) Description of non-cash assistance	(h) Method of valuation (book, FMV, appraisal, other)
(1)							
(2)							
(3)							
(4)							
(5)							
(6)							
(7)							
(8)							
(9)							
(10)							
(11)							
(12)							
(13)							
(14)							
(15)							
(16)							
(17)							
(18)							

Part IV Foreign Forms

- 1** Was the organization a U.S. transferor of property to a foreign corporation during the tax year? *If "Yes," the organization may be required to file Form 926, Return by a U.S. Transferor of Property to a Foreign Corporation (see Instructions for Form 926)* Yes No
- 2** Did the organization have an interest in a foreign trust during the tax year? *If "Yes," the organization may be required to file Form 3520, Annual Return to Report Transactions with Foreign Trusts and Receipt of Certain Foreign Gifts, and/or Form 3520-A, Annual Information Return of Foreign Trust With a U.S. Owner (see Instructions for Forms 3520 and 3520-A)* Yes No
- 3** Did the organization have an ownership interest in a foreign corporation during the tax year? *If "Yes," the organization may be required to file Form 5471, Information Return of U.S. Persons with respect to Certain Foreign Corporations. (see Instructions for Form 5471)* Yes No
- 4** Was the organization a direct or indirect shareholder of a passive foreign investment company or a qualified electing fund during the tax year? *If "Yes," the organization may be required to file Form 8621, Return by a Shareholder of a Passive Foreign Investment Company or Qualified Electing Fund. (see Instructions for Form 8621)* Yes No
- 5** Did the organization have an ownership interest in a foreign partnership during the tax year? *If "Yes," the organization may be required to file Form 8865, Return of U.S. Persons with respect to Certain Foreign Partnerships. (see Instructions for Form 8865)* Yes No
- 6** Did the organization have any operations in or related to any boycotting countries during the tax year? *If "Yes," the organization may be required to file Form 5713, International Boycott Report (see Instructions for Form 5713)* Yes No

**SCHEDULE I
(Form 990)**

Department of the Treasury
Internal Revenue Service
Name of the organization

**Grants and Other Assistance to Organizations,
Governments, and Individuals in the United States**

Complete if the organization answered "Yes" to Form 990, Part IV, line 21 or 22.
▶ Attach to Form 990.

OMB No. 1545-0047

2010

**Open to Public
Inspection**

Employer identification number

Part I General Information on Grants and Assistance

- 1** Does the organization maintain records to substantiate the amount of the grants or assistance, the grantees' eligibility for the grants or assistance, and the selection criteria used to award the grants or assistance? Yes No
- 2** Describe in Part IV the organization's procedures for monitoring the use of grant funds in the United States.

Part II Grants and Other Assistance to Governments and Organizations in the United States. Complete if the organization answered "Yes" to Form 990, Part IV, line 21, for any recipient that received more than \$5,000. Check this box if no one recipient received more than \$5,000. Part II can be duplicated if additional space is needed. ▶

1 (a) Name and address of organization or government	(b) EIN	(c) IRC section if applicable	(d) Amount of cash grant	(e) Amount of non-cash assistance	(f) Method of valuation (book, FMV, appraisal, other)	(g) Description of non-cash assistance	(h) Purpose of grant or assistance
(1)							
(2)							
(3)							
(4)							
(5)							
(6)							
(7)							
(8)							
(9)							
(10)							
(11)							
(12)							

- 2** Enter total number of section 501(c)(3) and government organizations ▶
- 3** Enter total number of other organizations ▶

Section references are to the Internal Revenue Code unless otherwise noted.

General Instructions

Note. Terms in **bold** are defined in the *Glossary of the Instructions for Form 990*.

Purpose of Schedule

Schedule I (Form 990) is used by an organization that files Form 990 to provide information on **grants and other assistance** made by the filing organization during the **tax year** to organizations, governments, and individuals in the United States. Report activities conducted by the organization directly. Also, report activities conducted by the organization indirectly through a **disregarded entity** or a **joint venture** treated as a partnership.

Grants and other assistance include awards, prizes, allocations, stipends, scholarships, fellowships, research grants, and similar payments and distributions. Grants and other assistance do not include salaries or other **compensation** to employees. Grants and other assistance also do not include grants to affiliates that are not organized as legal entities separate from the filing organization or grants made to branch offices, accounts, or employees located in the **United States**.

Organizations in the United States include nonprofits or other exempt organizations, partnerships, corporations, or other business entities that are created or organized in the United States or under the laws of the United States or any state, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, American Samoa, the United States Virgin Islands, and an estate or trust other than a foreign estate or trust.

Governments in the United States include the U.S. government and the government of any state, the District of Columbia, or any possession of the United States, or **political subdivision** thereof. A grant to a U.S. government agency must be included on this schedule regardless of where the agency is located or operated.

Individuals in the United States include persons who are U.S. citizens or residents of the United States but do not include U.S. citizens or residents of the United States living or residing outside the United States at the time the grant is paid or distributed.

Parts II and III of Schedule I may be duplicated to list additional grantees (Part II) or types of grants/assistance (Part III) that do not fit on the first page of these parts. Number each page of each part.

Except as noted regarding grants to individuals, do not report foreign grants and assistance on this schedule. Instead, report them on Schedule F (Form 990), *Statement of Activities Outside the United States*.

Who Must File

An organization that answered "Yes" to Form 990, Part IV, *Checklist of Required Schedules*, line 21 or 22, must complete Part I and either Part II or Part III of this schedule and attach it to Form 990.

If an organization is not required to file Form 990 but chooses to do so, it must file a complete return and provide all of the information requested, including the required schedules.

Specific Instructions

Part I. General Information on Grants and Assistance

Complete this part if the organization answered "Yes" on Form 990, Part IV, line 21 or 22.

Lines 1 and 2. On line 1, indicate "Yes" or "No" regarding whether the organization maintains records to substantiate amounts, eligibility, and selection criteria used for grants. In general terms, describe how the organization monitors its grants to ensure that such grants are used for proper purposes and are not otherwise diverted from the intended use. For example, the organization can describe the periodic reports required or field investigations conducted. Use Part IV for the organization's narrative response to line 2.

Part II. Grants and Other Assistance to Governments and Organizations in the United States

Line 1. Complete line 1 if the organization answered "Yes" on Form 990, Part IV, line 21. A "Yes" response means that the organization reported more than \$5,000 on Form 990, Part IX, *Statement of Functional Expenses*, line 1, column (A). Enter information only for each recipient U.S. organization or government entity that received more than \$5,000 aggregate of grants or assistance from the organization during the tax year.



Do not complete line 1 if the organization checked the box in Part II that no one recipient received more than \$5,000 from the organization.

Enter the details of each organization or entity on a separate line of Part II. If there are more organizations or entities to report in Part II than space available, report the additional organizations or entities on duplicate copies of Schedule I, Part II. Use as many duplicate copies as needed, and number each page. Use Part IV if additional space is needed for descriptions of particular column entries.

Column (a). Enter the full legal name and mailing address of each recipient organization or government entity.

Column (b). Enter the employer identification number (EIN) of the grant recipient.

Column (c). Enter the section of the Internal Revenue Code under which the organization receiving the assistance is tax-exempt, if applicable (for example, a school described in section 501(c)(3) or a social club described in section 501(c)(7)). If a recipient is a government entity, enter the name of the government entity. If a recipient is neither a tax-exempt nor a government entity, leave column (c) blank.

Column (d). Enter the total dollar amount of cash grants to each recipient organization or entity for the tax year. Cash grants include grants and allocations paid by cash, check, money order, electronic fund or wire transfer, and other charges against funds on deposit at a financial institution.

Columns (e) and (f). Enter the **fair market value** of noncash property. Describe the method of valuation. Report property with a readily determinable market value (for example, market quotations for **securities**) at its fair market value. For marketable securities registered and listed on a recognized securities exchange, measure market value on the date the property is distributed to the grantee by the average of the highest and lowest quoted selling prices or the average between the *bona fide* bid and asked prices. When fair market value cannot be readily determined, use an appraised or estimated value.

Column (g). For noncash property or assistance, enter a description of the property or assistance. List all that apply. Examples of noncash assistance include medical supplies or equipment, pharmaceuticals, blankets, and books or other educational supplies.

Column (h). Describe the purpose or ultimate use of the grant funds. Do not use general terms such as charitable, educational, religious, or scientific. Use more specific descriptions such as general support, payments for nursing services, or laboratory construction. Enter the type of assistance, such as medical, dental, or free care for indigent hospital patients. In the case of disaster assistance, include a description of the disaster and the assistance provided (for example, "Food, shelter, and clothing for Organization A's assistance to Haiti disaster victims"). Use Part IV if additional space is needed for descriptions.



*If the organization checks "Accrual" on Form 990, Part XII, line 1, follows SFAS 116 (ASC 958) (see instructions for Form 990, Part IX), and makes a grant during the **tax year** to be paid in future years to an organization or government in the United States, it should report the grant's present value in Part II, line 1, column (d) or (e), and report any accruals of present value increments in future years.*

Line 2. Add the number of recipient organizations listed on line 1 of Schedule I (Form 990), Part II, that (a) have been recognized by the Internal Revenue Service as exempt from federal income tax as described in section 501(c)(3), (b) are **churches**, including synagogues, temples, and mosques, (c) are integrated auxiliaries of churches and conventions or association of churches, or (d) are **governmental units** or entities in the **United States**. Enter the total.

Line 3. Add the number of recipient organizations listed on line 1 of Schedule I (Form 990), Part II, that are not described on line 2. This number should include organizations that are exempt under section 501(c) other than section 501(c)(3). Enter the total.

Part III. Grants and Other Assistance to Individuals in the United States

Complete Part III if the organization answered "Yes" on Form 990, Part IV, line 22. A "Yes" response means that the organization reported more than \$5,000 on Form 990, Part IX, line 2, column (A).

Enter information for **grants and other assistance** directly made to or for the benefit of individual recipients. Do not complete Part III for grants or assistance provided to individuals through another organization or entity. Instead, complete Part II, earlier. For example, report a payment to a **hospital** designated to cover the medical expenses of a particular individual in Part III and report a contribution to a hospital designated to provide some service to the general public or to unspecified charity patients in Part II.

Enter the details of each type of assistance to individuals on a separate line of Part III. If there are more types of assistance than space available, report the additional assistance transactions on duplicate copies of Schedule I, Part III. Use as many duplicate copies as needed, and number each page. Use Part IV if additional space is needed for descriptions of particular column entries.

Column (a). Specify type(s) of assistance provided, or describe the purpose or use of grant funds. Do not use general terms such as charitable, educational, religious, or scientific. Use more specific descriptions, such as scholarships for students attending school in a particular county or attending a particular school; provision of books or other educational supplies; food, clothing, and shelter for indigents, or direct cash assistance to indigents; etc. In the case of specific disaster assistance, include a description of the type of assistance provided and identify the disaster (for example, "Food, shelter, and clothing for immediate relief for Haiti disaster victims").

Column (b). Enter the number of recipients for each type of assistance. If the organization is unable to determine the actual number, provide an estimate of the number. Explain in Part IV how the organization arrived at the estimate.

Column (c). Enter the aggregate dollar amount of cash grants for each type of grant or assistance. Cash grants include grants and allocations paid by cash, check, money order, electronic fund or wire transfer, and other charges against funds on deposit at a financial institution.

Columns (d) and (e). Enter the **fair market value** of noncash property. Describe the method of valuation. Report property with a readily determinable market value (for example, market quotations for **securities**) at its fair market value. For marketable securities registered and listed on a recognized

securities exchange, measure market value by the average of the highest and lowest quoted selling prices or the average between the *bona fide* bid and asked prices, on the date the property is distributed to the grantee. When fair market value cannot be readily determined, use an appraised or estimated value.

Column (f). For noncash grants or assistance, enter descriptions of property. List all that apply. Examples of noncash assistance include medical supplies or equipment, pharmaceuticals, blankets, and books or other educational supplies.



*If the organization checks "Accrual" on Form 990, Part XII, line 1, follows SFAS 116 (ASC 958) (see instructions for Form 990, Part IX), and makes a grant during the **tax year** to be paid in future years to an individual in the United States, it should report the grant's present value in Part III, column (c) or (d), and report any accruals of present value increments in future years.*

Part IV. Supplemental Information

Use Part IV to provide narrative information required in Part I, line 2, regarding monitoring of funds, and in Part III, column (b) regarding how the organization estimated the number of recipients for each type of grant or assistance. Also use Part IV to provide other narrative explanations and descriptions, as needed. Identify the specific part and line(s) that the response supports. Part IV can be duplicated if more space is needed.

**SCHEDULE J
(Form 990)**

Department of the Treasury
Internal Revenue Service
Name of the organization

Compensation Information
For certain Officers, Directors, Trustees, Key Employees, and Highest
Compensated Employees
▶ Complete if the organization answered "Yes" to Form 990,
Part IV, line 23.
▶ Attach to Form 990. ▶ See separate instructions.

OMB No. 1545-0047

2010

**Open to Public
Inspection**

Employer identification number

Part I Questions Regarding Compensation

- 1a** Check the appropriate box(es) if the organization provided any of the following to or for a person listed in Form 990, Part VII, Section A, line 1a. Complete Part III to provide any relevant information regarding these items.
- | | |
|--|--|
| <input type="checkbox"/> First-class or charter travel | <input type="checkbox"/> Housing allowance or residence for personal use |
| <input type="checkbox"/> Travel for companions | <input type="checkbox"/> Payments for business use of personal residence |
| <input type="checkbox"/> Tax indemnification and gross-up payments | <input type="checkbox"/> Health or social club dues or initiation fees |
| <input type="checkbox"/> Discretionary spending account | <input type="checkbox"/> Personal services (e.g., maid, chauffeur, chef) |

b If any of the boxes on line 1a are checked, did the organization follow a written policy regarding payment or reimbursement or provision of all of the expenses described above? If "No," complete Part III to explain.

2 Did the organization require substantiation prior to reimbursing or allowing expenses incurred by all officers, directors, trustees, and the CEO/Executive Director, regarding the items checked in line 1a?

3 Indicate which, if any, of the following the organization uses to establish the compensation of the organization's CEO/Executive Director. Check all that apply.

- | | |
|--|--|
| <input type="checkbox"/> Compensation committee | <input type="checkbox"/> Written employment contract |
| <input type="checkbox"/> Independent compensation consultant | <input type="checkbox"/> Compensation survey or study |
| <input type="checkbox"/> Form 990 of other organizations | <input type="checkbox"/> Approval by the board or compensation committee |

4 During the year, did any person listed in Form 990, Part VII, Section A, line 1a, with respect to the filing organization or a related organization:

- a** Receive a severance payment or change-of-control payment from the organization or a related organization?
b Participate in, or receive payment from, a supplemental nonqualified retirement plan?
c Participate in, or receive payment from, an equity-based compensation arrangement?
 If "Yes" to any of lines 4a–c, list the persons and provide the applicable amounts for each item in Part III.

Only section 501(c)(3) and 501(c)(4) organizations must complete lines 5–9.

5 For persons listed in Form 990, Part VII, Section A, line 1a, did the organization pay or accrue any compensation contingent on the revenues of:

- a** The organization?
b Any related organization?
 If "Yes" to line 5a or 5b, describe in Part III.

6 For persons listed in Form 990, Part VII, Section A, line 1a, did the organization pay or accrue any compensation contingent on the net earnings of:

- a** The organization?
b Any related organization?
 If "Yes" to line 6a or 6b, describe in Part III.

7 For persons listed in Form 990, Part VII, Section A, line 1a, did the organization provide any non-fixed payments not described in lines 5 and 6? If "Yes," describe in Part III

8 Were any amounts reported in Form 990, Part VII, paid or accrued pursuant to a contract that was subject to the initial contract exception described in Regulations section 53.4958-4(a)(3)? If "Yes," describe in Part III

9 If "Yes" to line 8, did the organization also follow the rebuttable presumption procedure described in Regulations section 53.4958-6(c)?

	Yes	No
1a		
1b		
2		
3		
4a		
4b		
4c		
5a		
5b		
6a		
6b		
7		
8		
9		

Part II Officers, Directors, Trustees, Key Employees, and Highest Compensated Employees. Use duplicate copies if additional space is needed.

For each individual whose compensation must be reported in Schedule J, report compensation from the organization on row (i) and from related organizations, described in the instructions, on row (ii). Do not list any individuals that are not listed on Form 990, Part VII.

Note. The sum of columns (B)(i)–(iii) must equal the applicable column (D) or column (E) amounts on Form 990, Part VII, line 1a.

(A) Name		(B) Breakdown of W-2 and/or 1099-MISC compensation			(C) Retirement and other deferred compensation	(D) Nontaxable benefits	(E) Total of columns (B)(i)–(D)	(F) Compensation reported in prior Form 990 or Form 990-EZ
		(i) Base compensation	(ii) Bonus & incentive compensation	(iii) Other reportable compensation				
1	(i)							
	(ii)							
2	(i)							
	(ii)							
3	(i)							
	(ii)							
4	(i)							
	(ii)							
5	(i)							
	(ii)							
6	(i)							
	(ii)							
7	(i)							
	(ii)							
8	(i)							
	(ii)							
9	(i)							
	(ii)							
10	(i)							
	(ii)							
11	(i)							
	(ii)							
12	(i)							
	(ii)							
13	(i)							
	(ii)							
14	(i)							
	(ii)							
15	(i)							
	(ii)							
16	(i)							
	(ii)							

**SCHEDULE K
(Form 990)**

Department of the Treasury
Internal Revenue Service

Name of the organization

Supplemental Information on Tax-Exempt Bonds

▶ **Complete if the organization answered "Yes" to Form 990, Part IV, line 24a. Provide descriptions, explanations, and any additional information in Part V.**

▶ **Attach to Form 990.**

▶ **See separate instructions.**

OMB No. 1545-0047

2010

Open to Public Inspection

Employer identification number

Part I Bond Issues

(a) Issuer name	(b) Issuer EIN	(c) CUSIP #	(d) Date issued	(e) Issue price	(f) Description of purpose	(g) Defeased		(h) On behalf of issuer		(i) Pooled financing	
						Yes	No	Yes	No	Yes	No
A											
B											
C											
D											

Part II Proceeds

	A		B		C		D	
1 Amount of bonds retired								
2 Amount of bonds legally defeased								
3 Total proceeds of issue								
4 Gross proceeds in reserve funds								
5 Capitalized interest from proceeds								
6 Proceeds in refunding escrows								
7 Issuance costs from proceeds								
8 Credit enhancement from proceeds								
9 Working capital expenditures from proceeds								
10 Capital expenditures from proceeds								
11 Other spent proceeds								
12 Other unspent proceeds								
13 Year of substantial completion								
	Yes	No	Yes	No	Yes	No	Yes	No
14 Were the bonds issued as part of a current refunding issue?								
15 Were the bonds issued as part of an advance refunding issue?								
16 Has the final allocation of proceeds been made?								
17 Does the organization maintain adequate books and records to support the final allocation of proceeds?								

Part III Private Business Use

	A		B		C		D	
	Yes	No	Yes	No	Yes	No	Yes	No
1 Was the organization a partner in a partnership, or a member of an LLC, which owned property financed by tax-exempt bonds?								
2 Are there any lease arrangements that may result in private business use of bond-financed property?								

Part III Private Business Use *(Continued)*

	A		B		C		D	
	Yes	No	Yes	No	Yes	No	Yes	No
3a Are there any management or service contracts that may result in private business use of bond-financed property?								
b Are there any research agreements that may result in private business use of bond-financed property?								
c Does the organization routinely engage bond counsel or other outside counsel to review any management or service contracts or research agreements relating to the financed property?								
4 Enter the percentage of financed property used in a private business use by entities other than a section 501(c)(3) organization or a state or local government ▶		%		%		%		%
5 Enter the percentage of financed property used in a private business use as a result of unrelated trade or business activity carried on by your organization, another section 501(c)(3) organization, or a state or local government . . . ▶		%		%		%		%
6 Total of lines 4 and 5		%		%		%		%
7 Has the organization adopted management practices and procedures to ensure the post-issuance compliance of its tax-exempt bond liabilities?								

Part IV Arbitrage

	A		B		C		D	
	Yes	No	Yes	No	Yes	No	Yes	No
1 Has a Form 8038-T, Arbitrage Rebate, Yield Reduction and Penalty in Lieu of Arbitrage Rebate, been filed with respect to the bond issue?								
2 Is the bond issue a variable rate issue?								
3a Has the organization or the governmental issuer entered into a qualified hedge with respect to the bond issue?								
b Name of provider								
c Term of hedge								
d Was the hedge superintegrated?								
e Was the hedge terminated?								
4a Were gross proceeds invested in a GIC?								
b Name of provider								
c Term of GIC								
d Was the regulatory safe harbor for establishing the fair market value of the GIC satisfied?								
5 Were any gross proceeds invested beyond an available temporary period?								
6 Did the bond issue qualify for an exception to rebate?								

Part V Supplemental Information. Complete this part to provide additional information for responses to questions on Schedule K (see instructions).

**SCHEDULE M
(Form 990)**

Noncash Contributions

OMB No. 1545-0047

2010

**Open To Public
Inspection**

▶ **Complete if the organizations answered "Yes" on Form 990, Part IV, lines 29 or 30.**
▶ **Attach to Form 990.**

Department of the Treasury
Internal Revenue Service

Name of the organization

Employer identification number

Part I Types of Property

	(a) Check if applicable	(b) Number of contributions or items contributed	(c) Noncash contribution amounts reported on Form 990, Part VIII, line 1g	(d) Method of determining noncash contribution amounts
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				
11				
12				
13				
14				
15				
16				
17				
18				
19				
20				
21				
22				
23				
24				
25				
26				
27				
28				

29 Number of Forms 8283 received by the organization during the tax year for contributions for which the organization completed Form 8283, Part IV, Donee Acknowledgement **29**

	Yes	No
30a During the year, did the organization receive by contribution any property reported in Part I, lines 1–28 that it must hold for at least three years from the date of the initial contribution, and which is not required to be used for exempt purposes for the entire holding period?		
b If "Yes," describe the arrangement in Part II.		
31 Does the organization have a gift acceptance policy that requires the review of any non-standard contributions?		
32a Does the organization hire or use third parties or related organizations to solicit, process, or sell noncash contributions?		
b If "Yes," describe in Part II.		
33 If the organization did not report an amount in column (c) for a type of property for which column (a) is checked, describe in Part II.		

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Note. Terms in **bold** are defined in the *Glossary* of the Instructions for Form 990.

Purpose of Schedule

Schedule M (Form 990) is used by an organization that files Form 990 to report the types of **noncash contributions** received during the year by the organization and certain information regarding such **contributions**. The schedule requires reporting of the quantity and the reported financial statement amount of noncash contributions received by type of property. Report noncash donated items even if sold immediately after received. Do not report noncash contributions received by the organization in a prior year, donations of services, or the use of facilities.

Who Must File

An organization that answered "Yes" to Form 990, Part IV, *Checklist of Required Schedules*, lines 29 or 30, must complete Schedule M (Form 990) and attach it to Form 990. This means an organization that reported more than \$25,000 of aggregate **noncash contributions** on Form 990, Part VIII, *Statement of Revenue*, line 1g, or that during the year received **contributions of art, historical treasures**, or other similar assets, or **qualified conservation contributions**, regardless of whether it reported any revenues for such contributions in Part VIII.

If an organization is not required to file Form 990 but chooses to do so, it must file a complete return and provide all of the information requested, including the required schedules.

Specific Instructions

Part I. Types of Property

Column (a). Check the box if the organization received during the year any contributions of the property type identified.

Column (b). For each type of property received during the year, enter the number of **contributions** or the number of items contributed, determined in accordance with the organization's recordkeeping practices. Explain in Part II of this schedule whether the organization is reporting the number of contributions or the number of items received, or a combination of both methods. As described below, for contributions of **securities**, such as publicly traded stock, treat each separate gift (rather than each share received) as an item for this purpose.

Organizations that receive contributions of books, publications, clothing, and household goods are not required to complete column (b) for those items reported on lines 4 and 5.

Columns (c)–(d). In column (c), enter the revenues reported on Form 990, Part VIII, line 1g, for the appropriate property type. If none were reported, enter "0."

In column (d), describe the method used to determine the amount reported on Form 990, Part VIII, line 1g (for example, cost or selling price of the donated property, sale of comparable properties, replacement cost, opinions of experts, etc.). See Pub. 561, *Determining the Value of Donated Property*, for more information.

Example 1. A used car in poor condition is donated to a local high school for use by students studying car repair. A used car guide shows the dealer retail value for this type of car in poor condition is \$1,600. However, the guide shows the price for a private party sale of the car is only \$750. The fair market value of the car is considered to be \$750, which is the amount the organization reported on Form 990, Part VIII, line 1g. In column (c), the organization should enter \$750. In column (d), the organization should enter "sale of comparable properties and/or opinion of expert" as the method used to determine fair market value.

Example 2. An organization primarily receives bulk donations of clothing, household goods, and other similar items, intended for resale. Under its permitted financial reporting practices, it does not recognize or record revenue at the time of receipt of the contribution, but instead records such items in inventory and reports contribution revenues at the time of sale based on prior inventory turnover experience. In column (c), the organization can enter the amount that represents the total estimated amount of annual sales revenue for each type of property received under its permitted financial reporting method, and in column (d), enter "resale value or annual sales revenue" as the method of determining revenue.

Museums and other organizations that do not report contributions of **art, historical treasures**, and other similar items as revenues, as permitted under generally accepted accounting principles, enter "0" in column (c) and leave column (d) blank. The organization can explain in Part II that a zero amount was reported on Form 990, Part VIII, *Statement of Revenue*, line 1g, because the museum did not capitalize its collections, as allowed under **SFAS 116** (ASC 958-360-25).

An organization that receives **qualified conservation contributions** can report column (c) revenue consistent with a permitted method it uses for financial reporting purposes.

Line 1. Works of art include paintings, sculptures, prints, drawings, ceramics, antiques, decorative arts, textiles, carpets, silver, photography, film, video, installation and multimedia arts, rare books and manuscripts, historical memorabilia, and other similar objects. Works of art do not include **collectibles** that are reported on line 18.

Line 2. An historical treasure is a building, structure, area, or property with recognized cultural, aesthetic, or historical value that is significant in the history, architecture, archeology, or culture of a country, state, or city.

Line 3. A contribution of a fractional interest in art is a contribution, not in trust, of an undivided portion of a donor's entire interest in a **work of art**. A contribution of the donor's entire interest must consist of a part of each substantial interest or right the donor owns in such work of art and must extend over the entire term of the donor's interest in the property. A gift generally is treated as a gift of an undivided portion of a donor's entire interest in property if the donee is given the right, as a tenant in common with the donor, to possession, dominion, and control of the property for a portion of each year appropriate to its interest in such property. For each work of art or item, report in column (b) the fractional interest for each year an interest in the property is received with respect to the underlying work of art or item. See section 170(o) for special rules for fractional gifts.

Line 4. Enter information about **contributions** of all books and publications. Do not include rare books and manuscripts reported on line 1, **collectibles** reported on line 18, and archival records reported on lines 25 through 28.

Line 5. Enter information about clothing items and **household goods** which were in good used condition or better. Clothing items and household goods which were not in good used condition or better are to be reported as a separate type in "other" beginning with line 25.

Lines 6–7. On line 6 include only **contributions** of motor vehicles manufactured primarily for use on public streets, roads, and highways. Do not include in lines 6 or 7 contributions of the donor's stock in trade or property held by the donor primarily for sale to customers in the ordinary course of a trade or business. The organization is

required to file Form 1098-C, Contributions of Motor Vehicles, Boats, and Airplanes, with the donor and the IRS with respect to contributions reported on these lines. See Form 990, Part V, line 7h.

Line 8. Intellectual property is any patent, copyright (other than a copyright described in section 1221(a)(3) or 1231(b)(1)(C)), trademark, trade name, trade secret, know-how, software (other than software described in section 197(e)(3)(A)(i)), or similar property. Certain **contributions** of intellectual property require the organization to file Form 8899, Notice of Income From Donated Intellectual Property, with the donor and the IRS with respect to such contribution. See Form 990, Part V, line 7g.

Line 9. Publicly traded securities means **securities** for which (as of the date of the contribution) market quotations are readily available on an established securities market. For each **security**, treat each separate gift (rather than each share received) as a **contribution** for this purpose. Include on this line interests in publicly traded partnerships, limited liability companies or trusts, and publicly traded corporations.

Line 10. Closely held stock means shares of stock issued by a corporation that is not publicly traded. For each **security**, treat each separate gift (rather than each share received) as a **contribution** for this purpose.

Line 11. Enter information about **contributions** of interests in a partnership, limited liability company, or trust, that is not publicly traded. For each **security**, treat each separate gift (rather than each share received) as a contribution for this purpose.

Line 12. Enter information about **contributions** of **securities** that are not reported on lines 9 through 11. For each security, treat each separate gift (rather than each share received) as a contribution for this purpose.

Lines 13–14. A qualified conservation contribution is a contribution of a qualified real property interest exclusively for conservation purposes. A *qualified real property interest* means any of the following interests in real property:

1. The entire interest of the donor,
2. A remainder interest,
3. A restriction (an easement), granted in perpetuity, on the use which may be made of the real property.

A *conservation purpose* means:

1. The preservation of land areas for outdoor recreation used by, or for the education of, the general public;

2. The protection of a relatively natural habitat of fish, wildlife, plants, or similar ecosystems;

3. The preservation of open space (including farmland and forest land) where such preservation is for the scenic enjoyment of the general public or is in accordance with governmental conservation policy; or

4. The preservation of an historically important land area or a certified historic structure.

See section 170(h) for additional information, including special rules with respect to the conservation purpose requirement for buildings in registered historic districts.

On line 13, enter information about contributions of a qualified real property interest that is a restriction with respect to the exterior of a certified historic structure. A **certified historic structure** is any building or structure listed on the National Register as well as any building certified as being of historic significance to a registered historic district. See section 170(h)(4)(B) for special rules that apply to contributions made after August 17, 2006.

On line 14, enter information about qualified conservation contributions other than those entered on line 13. This includes **conservation easements** to preserve land areas for outdoor recreation used by or for the education of, the general public; to protect a relatively natural habitat or ecosystem; to preserve open space; or to preserve an historically important land area.

Line 15. Enter information about **contributions** of residential real estate. Include information about contributions (not in trust) of a remainder interest in a personal residence which was not the donor's entire interest in the property. The term personal residence includes any property used by the donor as a personal residence but is not limited to the donor's principal residence. The term *personal residence* also includes stock owned by the donor as a tenant-stockholder in a cooperative housing corporation if the dwelling the donor is entitled to occupy as a tenant-stockholder is used by the donor as a personal residence. Do not enter information about contributions of the use of facilities or property, as such contributions are not reportable in Form 990, Part VIII, *Statement of Revenue*.

Line 16. Enter information about **contributions** of commercial real estate, such as a commercial office building. Include information about contributions (not in trust) of a remainder interest in a farm which was not the donor's entire interest in the property. The term *farm* refers to land used for the production of

crops, fruits, or other agricultural products, or for the maintenance of livestock. A farm includes the improvements located on the farm property.

Line 17. Enter information about real estate interests not reported on lines 15 or 16.

Line 18. Collectibles include autographs, sports memorabilia, dolls, stamps, coins, books (other than books and publications reported on line 4), gems, and jewelry (other than costume jewelry reported on line 5), but not art reported on lines 1 through 3 or historical artifacts or scientific specimens reported on line 22 or 23.

Line 19. Enter information about food items, including food inventory contributed by corporations and other businesses.

Line 20. Enter information about drugs, medical supplies, and similar items contributed by corporations and other businesses that manufactured or distributed such items.

Line 21. Taxidermy property means any **work of art** that is the reproduction or preservation of an animal, in whole or in part; is prepared, stuffed, or mounted to recreate one or more characteristics of the animal; and contains a part of the body of the dead animal.

Line 22. Enter information about historical artifacts such as furniture, fixtures, textiles, and household items of an historic nature. Do not include **works of art** or **historical treasures** reported on lines 1 through 3 or any archeological artifacts reported on line 24.

Line 23. Scientific specimens include living plant and animal specimens, natural and physical sciences specimens (such as rocks and minerals), and objects or materials that relate to, or exhibit, the methods or principles of science.

Line 24. Enter information about archeological and ethnographical artifacts, other than **works of art** or **historical treasures** reported on lines 1 through 3 and historical artifacts reported on line 22. An *archaeological artifact* is any object that is over 250 years old and is normally discovered as a result of scientific excavation, clandestine or accidental digging for exploration on land, or under water. *Ethnographical artifacts* are objects which are the product of a tribal or nonindustrial society, and important to the cultural heritage of a people because of its distinctive characteristics, comparative rarity, or its contribution to the knowledge of the origins, development, or history of that people.

Lines 25–28. Use lines 25 through 28 to separately report other types of property not described above or reported on previous lines. These include items that did not satisfy specific charitable deduction requirements applicable to the **contribution** of such type of property, but which were contributed to the organization, such as clothing and **household goods** that were not in good used or better condition, and **conservation easements** that the organization knows do not constitute **qualified conservation contributions**.

Self-created items, such as personal papers and manuscripts, including archival records, are to be listed separately as a type. *Archival records* are materials of any kind created or received by any person, family, or organization in the conduct of their affairs that are preserved because of the enduring value of the information they contain or as evidence of the functions and responsibilities of their creator.

Donations of items used by the organization at a charitable auction (other than goods sold by the charity at the auction, which should be reported on lines 1-24, as appropriate), such as food served at the event or floral centerpieces, can be reported separately on lines 25-28. **Noncash contributions** do not include donations of services or use of materials, equipment, or facilities, which may be reported on Schedule D (Form 990), Part XI, line 5 and can also be reported in the narrative section of Form 990, Part III, line 4.

Line 29. Enter the number of Forms 8283, Noncash Charitable Contributions, received by the organization during the year for **contributions** for which the organization completed Part IV, *Donee Acknowledgement*, of such form.

Lines 30a–30b. Answer “Yes” to line 30a if the organization received during the year a **noncash contribution** reportable on lines 1 through 28 for which the organization is required, by the terms of the gift or otherwise, to hold the property for at least three years from the date of the **contribution** and which property is not required to be used for exempt purposes for the entire holding period. An organization that answers “Yes” to line 30a must describe the arrangement in Part II.

Line 31. Answer “Yes” if the organization has a gift acceptance policy that requires the review of any non-standard contributions. A *non-standard contribution* includes a contribution of an item that is not reasonably expected to be used to satisfy or further the organization’s exempt purpose (aside from the need of such organization for income or funds) and for which (a) there is no ready market to which the organization can go

to liquidate the contribution and convert it to cash, and (b) the value of the item is highly speculative or difficult to ascertain. For example, the contribution of a taxpayer’s successor member interest of the type described in Notice 2007-72, 2007-36 I.R.B. 544, is a non-standard contribution for this purpose.

Lines 32a–32b. Answer “Yes” to line 32a if the organization hires or uses third parties or related organizations to solicit, process, or sell **noncash contributions**. Answer “No” if the only third party used by the organization to solicit, process, or sell noncash contributions is a broker who sells publicly traded securities received by the organization as a gift. An organization that answers “Yes” to line 32a must describe these arrangements in Part II.

Line 33. If applicable, describe in Part II why the organization did not report revenue in column (c) for a type of property for which column (a) is checked.

Part II. Supplemental Information

Use Part II to provide narrative information required in Part I, column (b) and Part I, lines 30b, 32b, and 33. Also use Part II to provide other narrative explanations and descriptions, as needed. Identify the specific line number that the response supports. Part II can be duplicated if more space is needed.



EXEMPT ORGANIZATIONS

LETTER FROM THE DIRECTOR

Dear Colleagues:

Exempt Organizations (EO) respects the nonprofit sector’s work and supports its efforts by helping to ensure that the public maintains trust in the exempt sector. Over this past year, our leadership and staff have continued to support these efforts through a robust educational program, a more efficient determination process, and a comprehensive compliance program. We also have continued to communicate the importance of organizational governance and its expected impact on compliance with the tax law.

As we move forward into a new year, we view Fiscal Year 2011 as an opportunity to build on our recent efforts, fine-tune certain projects and programs, and prepare for the inevitable changes in the landscape of exempt organizations. Our work for this year comes together around three major themes:

- **EO Integrates.** In recent years, EO initiated several projects focusing on specific segments of the sector, as well as particular compliance issues affecting a cross-section of exempt organizations. We believe it is now appropriate to incorporate these projects and lessons learned into the overall EO processes, rather than keeping these efforts as separate projects.
- **EO Supports and Collaborates.** In the coming year, IRS leadership will focus agency-wide attention on certain critical issues, including international activities and compliance with the passage of recent legislation. These important efforts require significant resources from EO. Other key projects will involve collaborative work with the National Research Program and non-filer initiatives.
- **EO Invests.** In order to keep up with the ever-changing exempt organization sector, EO will invest time and resources in a wide array of initiatives, which will touch a broader audience.

This report provides updated statistics and discussions of our accomplishments in FY 2010, as well as a preview of our programs in FY 2011. We look forward to working with the exempt community and our stakeholders and continuing to share what we learn.

Respectfully yours,

Lois G. Lerner

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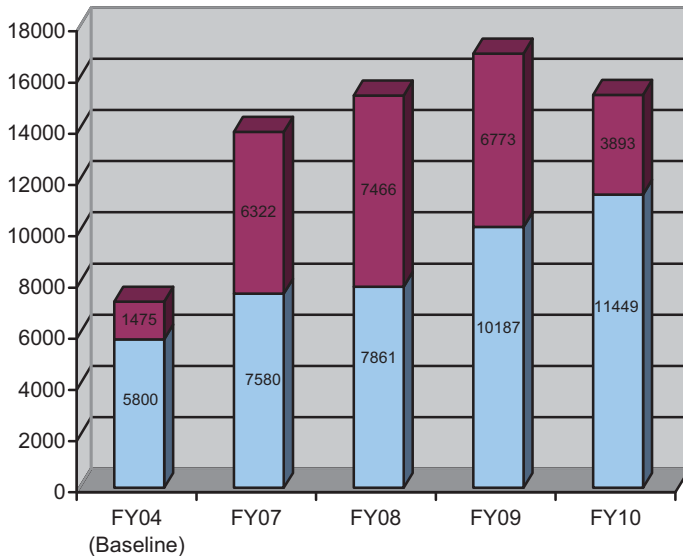
Lois G. Lerner
Director, Exempt Organizations

Compliance

This graph displays the combined total number of returns examined through the traditional examination process and the less resource-intensive compliance checks.

Compliance checks inquire about an item on a return or solicit information about an organization's operations, enabling us to touch more organizations than we could by using an exclusively exam-based strategy.

Total number of returns examined



■ Traditional Examinations ■ Compliance Checks

EO Examinations

EO Examinations is responsible for enforcement activities, including both compliance checks and audits of exempt organizations. EO Examinations is made up of field exam groups; the Exempt Organization Compliance Unit (EOCU), which conducts compliance checks; Review of Operations (ROO), which does follow-up reviews of organizations; and Compliance Strategies Critical Initiative (CSCI), which coordinates EO's strategic planning, monitors progress of critical initiatives, and analyzes the results of these projects.



Nan Downing
Director, EO Examinations

EO's traditional examinations, coupled with less resource-intensive compliance checks, continue to deliver impressive compliance results.* By expanding our collaboration with outside agencies — including the Social Security Administration and the states — we obtained valuable electronic data that allowed us to more readily identify potential nonfilers and to focus our exam resources on noncompliant organizations. Our methods of case selection for examinations resulted in a higher percentage of cases selected involving significant issues and agents securing a considerably higher number of delinquent returns than in any recent year.

**2010 legislation provisions necessitated a higher ratio of traditional exams to compliance checks than in the past, resulting in fewer overall closures.*

Applications for Tax Exemption

Rulings and Agreements

EO Rulings and Agreements (R&A), made up of Determinations and Technical, is responsible for reviewing applications for exemption, issuing private letter rulings, providing technical advice, and collaborating with Chief Counsel's office and the Department of the Treasury to deliver formal guidance.

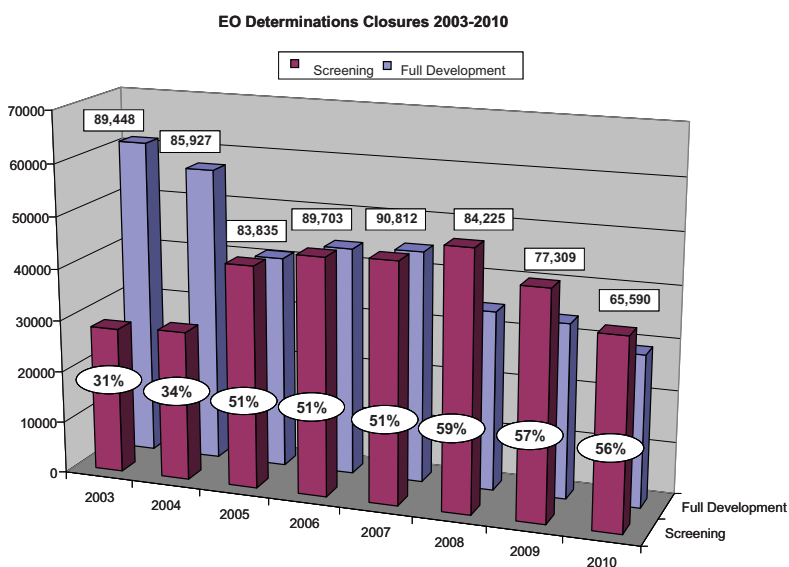


Rob Choi, Director
EO Rulings & Agreements

In 2008, the revision of the Form 990 eliminated the need for the advance ruling process for section 501(c)(3) organizations. Under the former process, an applicant organization was granted public charity status conditionally for its first five years, after which it had to come back and demonstrate it had sufficient public support to be classified as a public charity rather than a private foundation.

Under the new process, in lieu of coming back in five years, an organization shows that it has met and continues to meet the public support test on either Schedule A (Public Charity Status and Public Support) of Form 990 or Form 990-EZ.

The new process eliminated about 20,000 follow-up cases from the workload, which traditionally were disposed of through the screening process. While the number of cases went down, those remaining were more complex.



This chart compares the number of cases closed through the screening process and cases closed after in-depth development in FY 2003-2010.

Despite a more difficult caseload, experience gained and efficiencies initiated to the screening program over the last several years have enabled us to continue to maintain a high level of screening.

Education & Formal Guidance

With the expanded responsibilities imposed by new legislation and a growing customer base, EO continued its extensive education and communication efforts in FY 2010.

- Provided an online toolkit to internal and external stakeholders to alert the tax-exempt community of the filing relief program available to small organizations at risk for losing their tax exemption for failure to file
- Prepared and distributed information about new legislation, including the American Recovery and Reinvestment Act and Affordable Care Act, to the tax-exempt community
- Hosted the inaugural joint workshops with Seton Hall University, West Virginia University and Lawrence Technological University to kick off the work of the Academic Institution Initiative
- Hosted 18 Small & Midsize 501(c)(3) Workshops nationwide, which offered guidance on a variety of topics such as EO filing requirements, unrelated business income, and public inspection and disclosure requirements
- Released an updated gaming publication, *Tax-Exempt Organizations and Gaming*, which helps organizations understand how their activities impact their tax-exempt status by describing the unique reporting and filing responsibilities of each type of exempt organization

Customer Education and Outreach

Customer Education and Outreach (CE&O) offers specialized education and outreach programs to help exempt organizations understand their tax responsibilities. CE&O oversees the Charities and Nonprofits pages of IRS.gov, develops publications and web-based materials, manages the Academic Institution Initiative, and offers face-to-face workshops and seminars on EO tax laws. In addition to CE&O core staff, subject-area experts from Examinations and R&A support EO outreach efforts and augment CE&O's mission.



Bobby Zarin, Director
EO Customer Education & Outreach

The table below shows FY 2010 outreach efforts, as well as the changes from FY 2009.

EO Education and Outreach Efforts

Outreach Efforts	FY 2008 Total (Baseline)	FY 2009 Total	FY 2010 Total*	Change from FY 2009
EO Update subscribers	75,473	101,730	130,176	28%
Speeches, Tax Forums and Workshops*	289	305	194	-36%
IRS.gov/eoH website views	4,960,256	4,994,022	5,333,380	7%

*The number of outreach events, most of which are generated externally, reached an all-time high in FY2008/2009, due to presentations describing the redesigned Form 990, a major EO initiative.

Education & Formal Guidance (cont.)

EO makes technical interpretations of the laws and procedures publicly available through regulations, revenue rulings, revenue procedures, announcements, and notices.

In FY 2010, published guidance highlights included:

One-Time Filing Relief for Small Organizations

May 17, 2010, was the first filing deadline to trigger revocation under the Pension Protection Act (PPA) for organizations that failed to file for three consecutive years.

On July 26, 2010, IRS Commissioner Doug Schulman announced a one-time, two-part filing relief program to provide an additional opportunity for small organizations at risk for revocation to file.

The IRS posted a list of names and last-known addresses of possible at-risk organizations on the IRS.gov website and provided guidance on coming back into compliance. This guidance included details about completing filing requirements, along with frequently asked questions.

The guidance extended that the deadline to file to October 15, 2010, for the smallest organizations. Those with gross receipts of \$25,000 or less could retain exemption by filing the simple Form 990-N, the e-Postcard, by the October 15 date.

Organizations eligible to file the Form 990-EZ for the past three years could save their tax-exempt status by filing their three delinquent returns and pay a small compliance fee by October 15, 2010.

Notice 2010-39

The Affordable Care Act (ACA) imposed four additional requirements for hospitals to qualify as section 501(c)(3) organizations. Notice 2010-39 explained the new requirements and additional reporting and excise taxes enacted in the ACA, and requested comments from the public on how the IRS should provide guidance on the new provisions.

Regulation 4965 - Prohibited Tax Shelter Transactions

Section 4965 imposes an excise tax on tax-exempt organizations and associated employees who engage in prohibited tax shelter transactions. These regulations explain the tax and the associated disclosure rules. The regulations finalized temporary regulations issued in 2007.

Announcement 2010-19

The announcement explains procedures that a trust may use to request a ruling that it was-- and continues to be-- a Type III supporting organization. It further describes how to request a refund for private foundation excise taxes paid in 2008.

This announcement also describes the procedure under which a private foundation can terminate its private foundation status by operating as a public charity for 60 months.

Organizational Information

EO Staffing

The EO Rulings and Agreements office (R&A) processes applications for tax exemption and provides direction through private letter rulings and technical guidance.

The EO Examinations office (Exam) promotes compliance by analyzing operational and financial activities of exempt organizations. These activities include developing processes to identify areas of noncompliance, developing corrective strategies and assisting other EO functions in implementing these strategies.

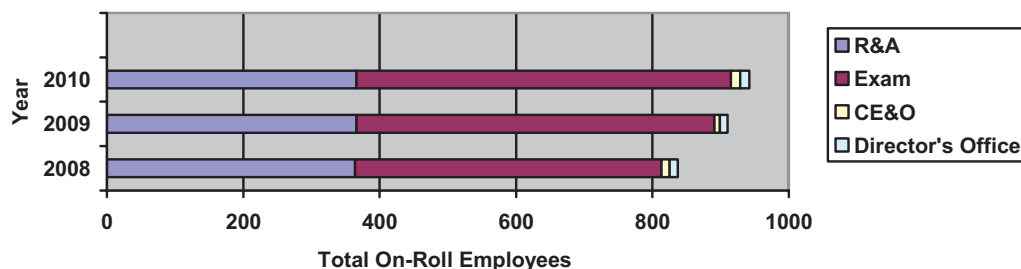
The EO Customer Education and Outreach office (CE&O) coordinates, assists and supports the development of internal and external communications, forms and publications and external education and outreach efforts.

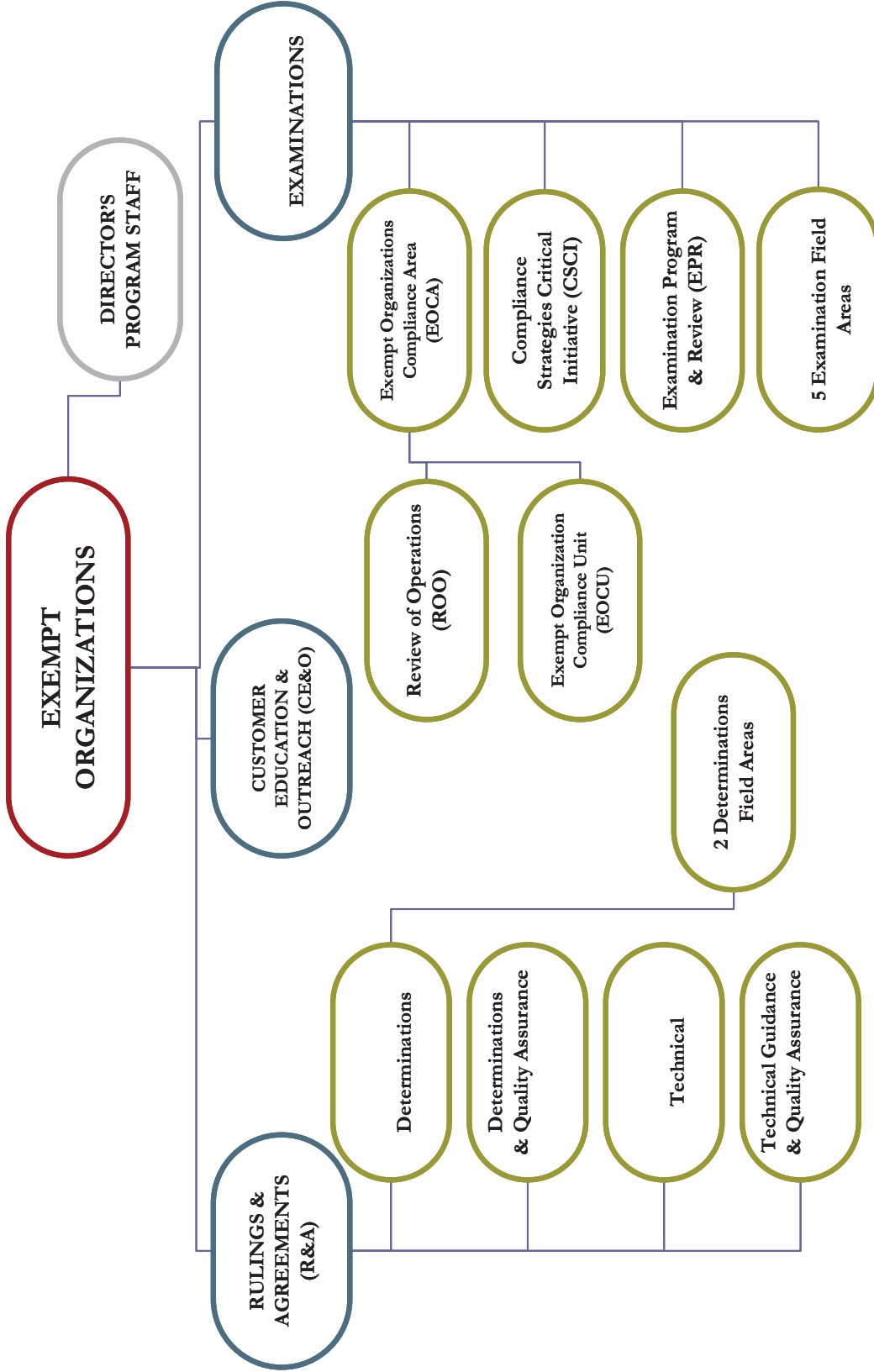
EO continues to grow in order to meet the needs of the tax-exempt community.

Table of EO On-Roll Employees over a 3-Year Period

	Rulings & Agreements	Examinations	Customer Education & Outreach	Director's Office	Total
2008	364	449	12	12	837
2009	366	525	8	11	910
2010	366	549	14	13	942

EO On-Roll Employee Growth over a 3-Year Period





Spotlight: Filing Relief Program

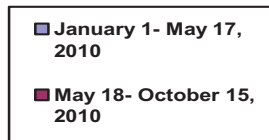
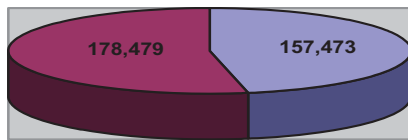
Background: The Pension Protection Act of 2006 made two important changes affecting tax-exempt organizations, effective the beginning of 2007. First, it requires all tax-exempt organizations, other than churches and church-related organizations, must file an annual return with the IRS. That includes small tax-exempt organizations with gross receipts of \$25,000 or less and had not previously had a filing requirement. They now are required to submit a Form 990-N, also known as an e-Postcard. Second, it mandates that any tax-exempt organization that fails to file for three consecutive years automatically loses its federal tax-exempt status.

Current Efforts: The **first three-year filing deadline** that could trigger revocation for failure to file was May 17, 2010. Despite an extensive outreach effort for the past three years, once the filing date arrived, the IRS realized that many organizations continued to be unaware of the tax law changes. On May 18, Commissioner Shulman announced that the IRS would provide additional guidance to help these small organizations maintain their tax-exempt status—even if they had missed the filing deadline. The Commissioner encouraged them to continue filing and reassured them that the IRS would do what it could to help them avoid losing their tax-exempt status.

On July 26, 2010, the IRS announced a **one-time two-part relief program** to bring these small nonprofit organizations back into compliance. First, the program extended the filing deadline to October 15 for the smallest organizations, those eligible to file the Form 990-N, the e-Postcard. Second, it provided for a voluntary compliance program for those eligible to file the Form 990-EZ for the past three years. Under this program, an organization had to file its three delinquent returns and pay a small fee by October 15. Form 990 and 990-PF filers were not eligible to participate in this program.

The IRS posted a **list of the names and last-known addresses of more than 300,000 at risk organizations** with filing due dates from May 17 through October 15, 2010, and no record of having filed a required annual return or notice for 2007, 2008 or 2009.

Immediately following the Commissioner's announcement, the IRS expanded its **outreach efforts** to alert the tax-exempt sector of the relief program. As a result, during the Filing Relief Program (between May 18 and October 15), more organizations filed 990-Ns than during the previous five-month period.



**These figures only reflect the number of 990-Ns filed, not the number of organizations that have filed or the number that originally were not filed timely and took advantage of the filing relief program. In addition, 4,621 organizations filed the 990-EZ form during the at-risk period.*

Total: 335,952 990-Ns filed by October 15, 2010

Post-October 15: Eligible organizations that properly filed according to the Filing Relief Program will remain tax exempt.

Revocation: By operation of law, organizations that failed to file annual information returns for three consecutive years, and organizations eligible to participate in the filing relief program that failed to do so by the October 15 deadline, automatically will be revoked as of the original due date of their third return. In early 2011, the IRS will notify these organizations, and will publish their names by posting a list of revoked organizations on IRS.gov.

Each month, as subsequent filing due dates pass, the IRS will expand the list to include the names of additional organizations that are revoked for failure to file for three consecutive years.

Contributions and tax deductions: Donors who contribute to organizations otherwise eligible to receive tax-deductible contributions can continue to take a tax deduction until the IRS publishes the name of the organization on the list of revoked organizations. A contribution to an organization listed on the IRS site as having lost its tax-exempt status is not tax deductible.

Reinstatement: An organization that wishes to retain its tax-exempt status must apply to have its tax-exempt status reinstated, even if it was not originally required to file an application for exemption. To do so, it must:

- File either Form 1023 or 1024, as appropriate;
- Pay the appropriate user fee; and
- Write automatically revoked on the top of the application and envelope.

EO Determinations will review the applications received in the normal course of business.

On-going Education: EO will continue its aggressive educational program to alert tax-exempt organizations of their annual filing requirements and the consequences of not filing.

Compliance Review: EO will conduct a compliance review of organizations that filed a Form 990-N but previously reported financial activity indicated they were ineligible to do so.

Spotlight: Redesigned 2008 Form 990 Filings

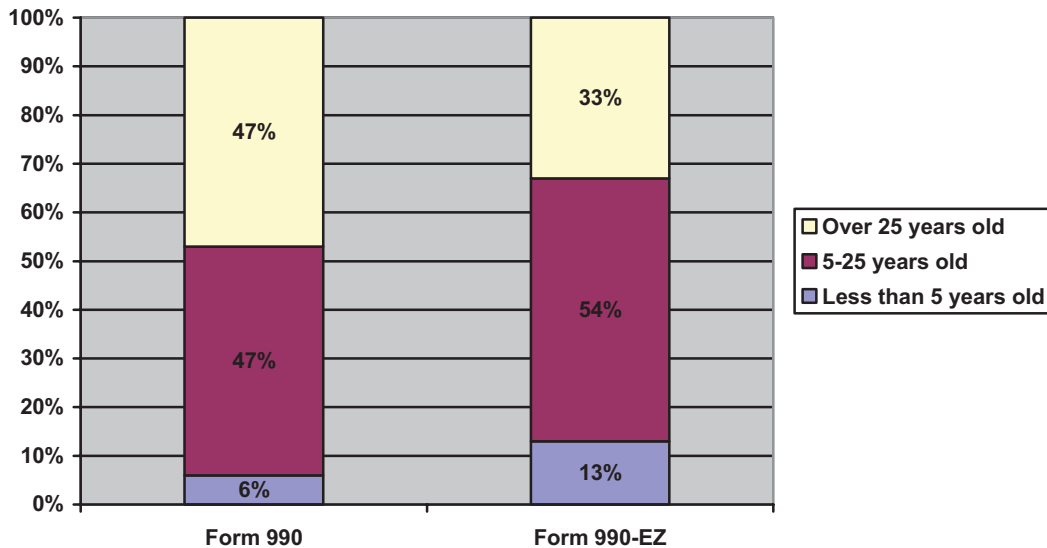
Statistics and Demographics for Redesigned 2008 Form 990 Filings

The IRS significantly redesigned Form 990, *Return of Organization Exempt From Income Tax*, for tax year 2008. Now that the filing season for tax year 2008 is nearly complete, the IRS has compiled the following demographic and statistical information on 2008 Form 990 (along with certain statistics on Forms 990-EZ and 990-N) filings and filing organizations, based on data available through September 30, 2010:

Demographics of Filing Population

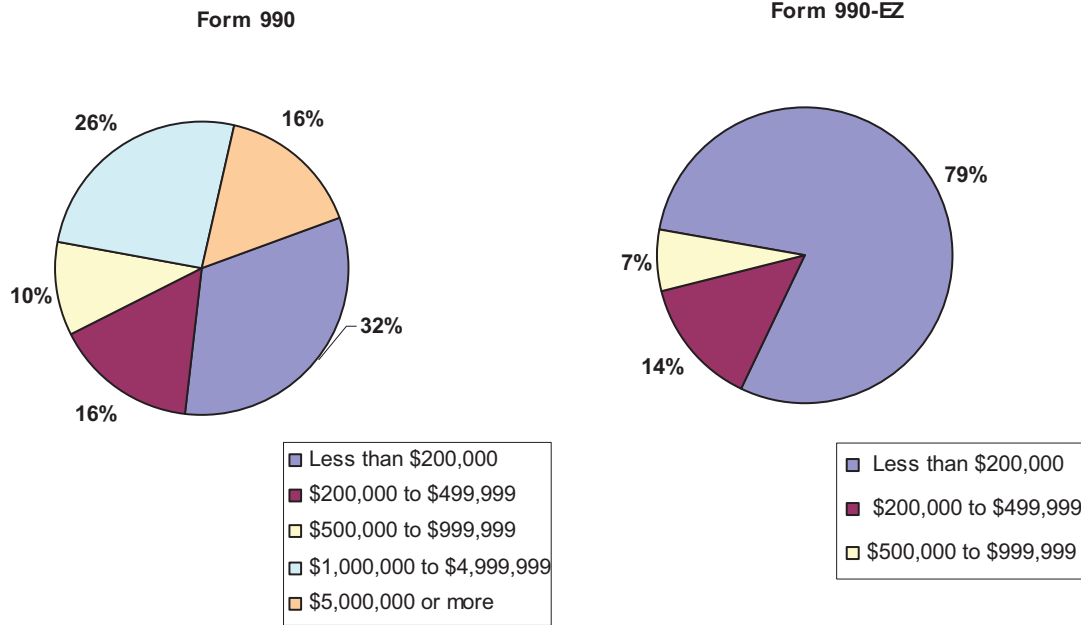
AGE OF ORGANIZATIONS

Age of Tax-Exempt Organizations Filing 2008 Form 990-Series Returns*

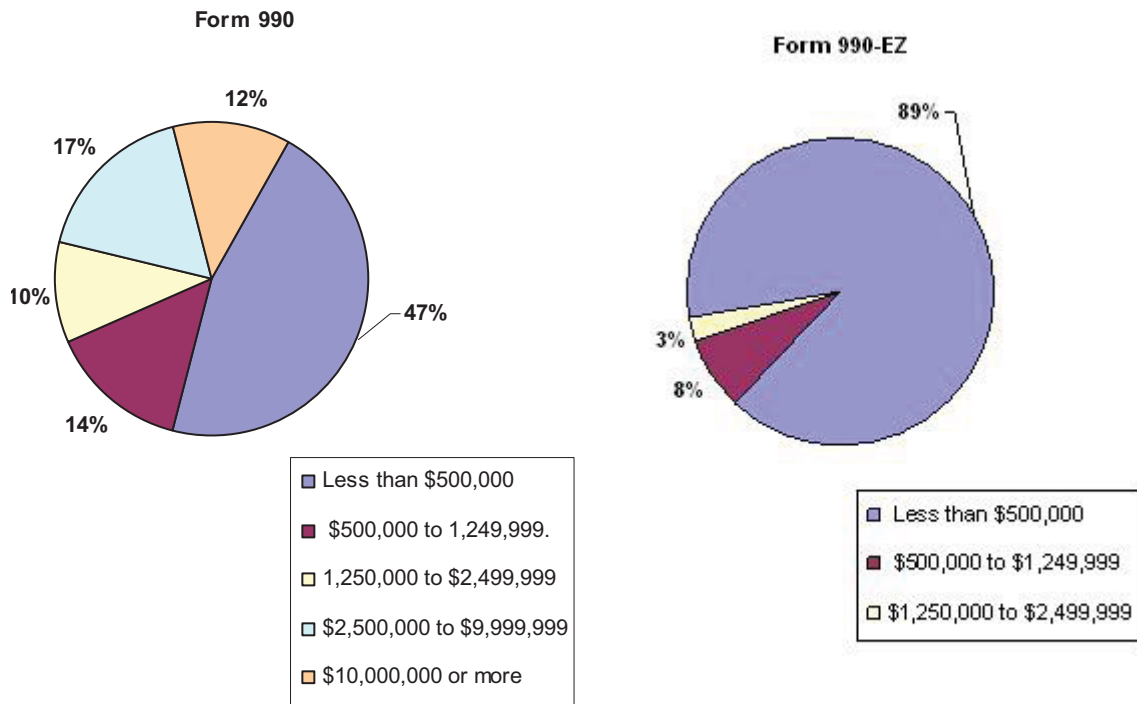


* Age reflects the date on which the organization's federal Employer Identification Number (EIN) was assigned. This does not necessarily reflect the date on which the organization was formally organized, received recognition of exemption by the IRS or filed its first return with the IRS.

SIZE OF ORGANIZATION by Gross Annual Receipts, as Reported by 2008 Filers of:



SIZE OF ORGANIZATION by End of Year Total Assets, as Reported by 2008 Filers of:



GEOGRAPHY OF ORGANIZATIONS by U.S. Regions, Tax Year 2008:

Geography by U.S. Regions*		
	Form 990	Form 990-EZ
	%	%
Northeast	18%	19%
Mid Atlantic	22%	22%
Gulf Coast	21%	19%
Great Lakes	18%	16%
Pacific Coast	21%	24%
Total	100%	100%

* For more information on identification of U.S. states in the geographical regions, go to: <http://www.irs.gov/charities/article/0,,id=137767,00.html>

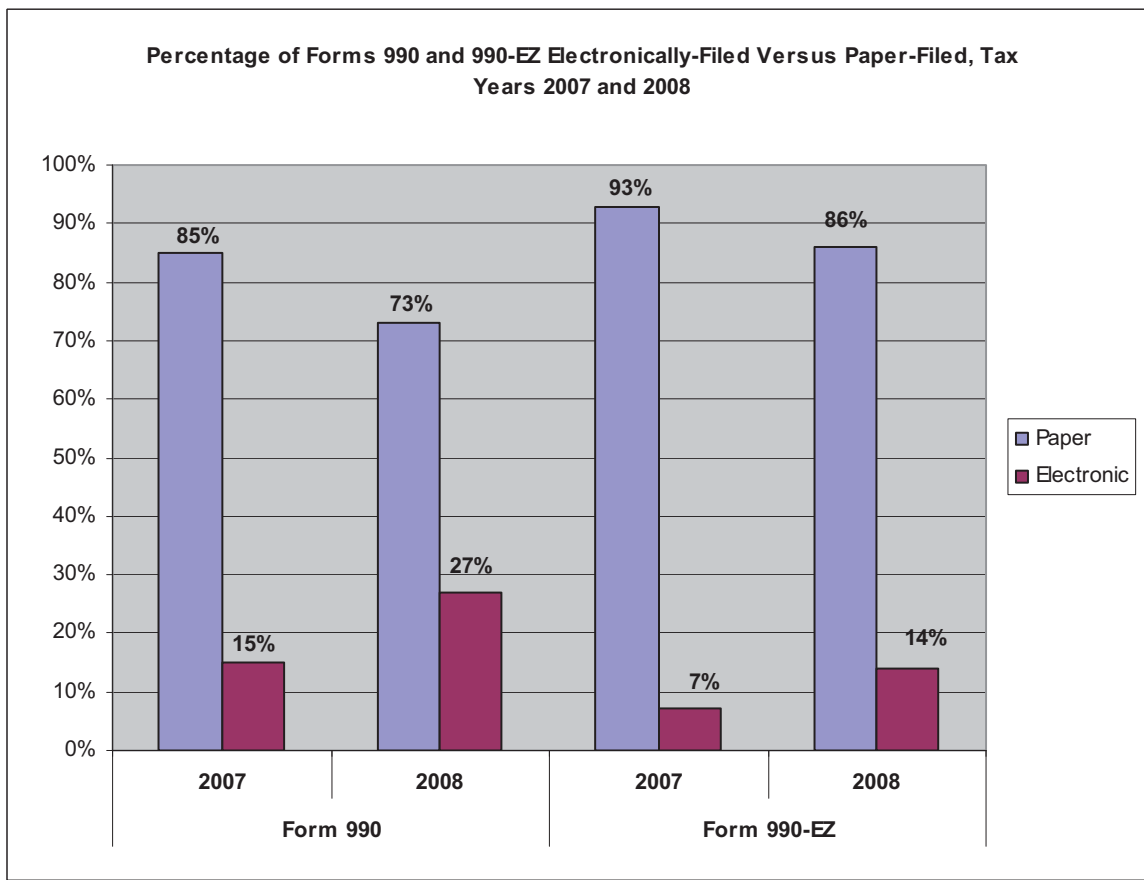
2008 Forms 990 and 990-EZ Statistics

Paper v. Electronic Filing*

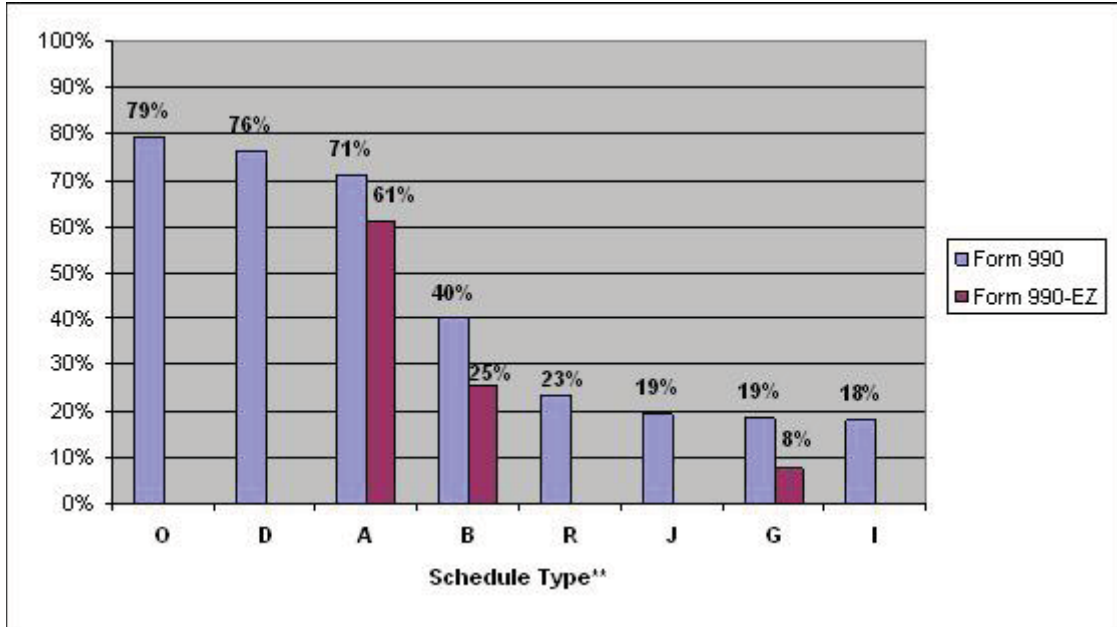
	Form 990		Form 990-EZ		Form 990-N (electronically filed)	
	2007	2008	2007	2008	2007	2008
Paper Returns	327,579	160,362	147,960	266,008		
Electronic Returns	59,664	57,975	11,864	44,362	242,614	292,002

Note: 52% of the organizations that filed the Form 990 for tax year 2008 could have filed the Form 990-EZ, based on assets and gross receipts thresholds for filing Form 990-EZ.

*Number of returns posted to IRS Business Master File as of September 30, 2010



Most Commonly Filed Form 990 and 990-EZ Schedules for Tax Year 2008*



Note: To date, approximately 90 percent of 2009 Form 990 filers have filed Schedule O, as compared to 79.4 percent for tax year 2008. All Form 990 filers are required to file Schedule O.

* Number of returns posted to IRS Business Master File as of September 30, 2010

** This chart includes the most commonly filed of the 16 Form 990 schedules:

Schedule A: *Public Charity Status and Public Support*

Schedule B: *Schedule of Contributors*

Schedule D: *Supplemental Financial Statements*

Schedule G: *Supplemental Information Regarding Fundraising or Gaming Activities*

Schedule I: *Grants and Other Assistance to Organizations, Governments, and Individuals in the United States*

Schedule J: *Compensation Information*

Schedule O: *Supplemental Information to Form 990*

Schedule R: *Related Organizations*

Schedules D, I, J, R, and O apply only to Form 990 filers.

Preparer Statistics

Paid-Prepared v. Self-Prepared				
	Form 990		Form 990-EZ	
	2007	2008	2007	2008
Paid-Prepared	81%	87%	50%	68%
Self-Prepared	19%	13%	50%	32%

Internet resources available to help with preparation of Form 990

To help filers complete the Forms 990, 990-EZ and 990-N, the IRS offers the following free, web-based resources available on www.irs.gov/charities and www.stayexempt.org:

- [Interactive virtual workshops and mini-courses](#) on multiple topics, including Form 990
- Compiled [FAQs](#) listing annual reporting requirements for tax-exempt organizations
- [Case Study videos](#) featuring a hypothetical tax-exempt organization and step-by-step instructions for completing that organization's Form 990
- [The NEW Form 990: What Tax-Exempt Organizations Need to know:](#) publication and related checklist
- [EO Update](#), a periodic newsletter with information of interest to tax-exempt organizations and tax practitioners who represent them, including Form 990-related updates

The IRS encourages comments and suggestions on how to improve the Form 990, schedules, and/or instructions. Please send to:

Form990Revision@irs.gov

FY 2011 WORKPLAN

EO Integrates – Project to Process

Through our project work, EO has developed extensive knowledge and improved skills on a wide range of subjects, allowing us to develop training materials and tools to help our staff effectively address these issues when they encounter them. It is now time to take a “project to process” approach by winding down these separate, formal projects, and assimilating them into our general casework. Below are the brief descriptions and reporting results of some of the projects that we are merging into our overall process.

- *Combined Annual Wage Reporting – The “CAWR” Project.* In FY 2007-2010, EO took a close look at employment tax reporting by exempt organizations using CAWR data, which compares information reported to the Social Security Administration (SSA) on Form W-2 with information reported to the IRS by employers on Form 941. EO CAWR populations consisted of approximately 4,000 organizations each year. Using CAWR, EO was able to identify organizations that reported wages on their W-2s but had not filed Form 941; other organizations showed officer compensation on Form 990, but had not filed Forms W-2 or 941, and non-501(c)(3) organizations that had not filed Form 940 to report and pay federal unemployment tax. (Section 501(c)(3) organizations are exempt from this tax.)

This project helped EO improve case selection and focus examination resources on organizations with high potential for non-compliance.

- *Consumer Credit Counseling Project.* One of EO’s most complex and wide-ranging efforts has been its multi-year focus on consumer credit counseling organizations. Throughout the course of this project, the IRS developed enhancements to its tax-exempt Examination program and refined its Determinations program to better identify potential abuses.

During the initial phase of the project, the IRS examined the 63 largest credit counseling organizations, based on their revenues. The IRS revoked, terminated or proposed revoking the exemptions of 41 of these organizations.

In light of high levels of abuse, we sent questionnaires to the remaining organizations that appeared to be involved in credit counseling activities. EO examined the most egregious, and has revoked, terminated, or proposed revocation of over 59 percent of the group to date. This project helped to stimulate the Pension Protection Act law change, in which Congress strengthened the tax rules governing exempt credit counseling organizations.

Our experience in this area and the lessons learned prepared us to deal with a new type of organization that increased in numbers as a result of the economic downturn in the area of mortgage foreclosure assistance organizations.

- *Down Payment Assistance Project.* Traditional down-payment assistance (DPA) programs provide financial and educational assistance to low-income homebuyers who cannot afford to make the minimum down payment on a home or to pay the closing costs involved in obtaining a mortgage. Traditionally, these tax-exempt homeowner assistance programs are funded through grants or contributions from the general public, use accepted eligibility criteria to ensure that recipients are low-income individuals, and conduct financial counseling and educational activities to prepare potential homebuyers for the responsibilities of home ownership.

The IRS began to see a rise in applications for tax exemption from organizations that varied from the traditional DPA model by relying solely on service fees and payments – often referred to as “donations” – from builders and homesellers to fund their activities. In 2006, the IRS issued a revenue ruling holding that such seller-financed DPA programs primarily serve the private interests of home sellers by funneling down-payment assistance from sellers to buyers through self-serving arrangements. The revenue ruling further held that DPA organizations structured in this manner do not accomplish a primary charitable purpose and should not receive or be able to maintain 501(c)(3) tax exemption.

EO examined those DPA organizations that were funded solely by homesellers, and revoked, terminated or proposed revocation for 87 of 91 organizations.

To prevent additional seller-financed DPA organizations from obtaining tax-exempt status, EO initiated a screening program to identify applicants that planned to conduct DPA activities, and required them to answer detailed questions about their proposed activities to determine whether they were eligible for tax exemption. Of the nearly 600 DPA applications reviewed, over half were denied, closed for failure to respond, or withdrawn.

In 2008, Congress passed legislation prohibiting the use of down-payment assistance programs funded by those who have a financial interest in the sale in order to qualify for FHA insured mortgages.

- *Executive Compensation Compliance Initiative: Loans Project.* In 2004, the Internal Revenue Service, through the Exempt Organizations Office of the Tax Exempt and Government Entities Division (EO), implemented the Executive Compensation Compliance Initiative (the Project). A report

discussing the results was issued in March 2007. That report raised concerns about substantial loans to officers, directors, trustees and key employees with issues involving proper reporting and potential excess benefit issues. Consequently, we opened the Loans Project; the report is what follows.

The loan project began with 200 compliance checks and 50 single-issue examinations. Based upon the results of the compliance checks, additional organizations were selected for single-issue examinations for a total of 169 examinations.

The issues identified in these examinations include the following:

- Assessment of over \$5.5 million in section 4958 taxes.
- Assessment of over \$480 thousand in employment taxes reported on Form 941 and Form 945 for items of income not previously reported for disqualified persons and other employees.
- Assessment of over \$400 thousand in discrepancy adjustments for omitted income on Form 1040.
- Agents determined that loans to officers were not correctly reported on Form 990 in 91 instances. The errors were predominantly due either to misclassification on the balance sheet or to section 4958 adjustments.

The results of the 169 examinations were as follows:

Examination Results	# of Orgs	% of Total
No Change	37	22%
Written Advisory Issued	75	44%
Change or Delinquent Return Secured (Including Related Returns)	39	23%
Proposed Revocation or Termination	18	11%
Total	169	100%

The information gained from the Loans Project will be valuable as we continue to evaluate compensation in future projects.

- *Investment Income – IRC 501(c)(7) Compliance Project.* Investment income – interest on bank deposits, stock dividends, royalties and the like – is generally non-taxable for many types of exempt organizations. This is not true for section 501(c)(7) organizations (social clubs), whose income is taxed unless it comes directly from a member of the club, or has been “set aside” for certain charitable purposes.

EO reviewed Form 990 filings from section 501(c)(7) organizations to determine whether some were reporting investment income, but not reporting income on Form 990-T or paying the tax, and examined over 80 organizations. We secured delinquent Forms 990-T and collected the tax,

revoked the tax-exempt status or changed the subsection of 60 percent of the examined organizations.

- *Non-Exempt Charitable Trust Project.* Although not exempt under section 501(a), a non-exempt charitable trust (NECT) must devote all of its assets and income to charitable purposes, according to the terms of its trust document. The grantor can claim a charitable deduction for contributions of money or other assets placed into the trust.

A NECT has unique filing requirements. Because it is a trust, it must file Form 1041 and pay tax on its taxable income. However, because of its charitable purpose, it is subject to many of the same restrictions and excise taxes as section 501(c)(3) organizations, and it must file either a Form 990 or 990-PF.

Because some organizations were filing Forms 990 or 990-PF but not Form 1041, EO sent compliance check letters, seeking the missing returns or an explanation as to why they were not required.

Some older NECTs proved that they were established before 1969, when the regulations permitted “setting aside” amounts earmarked for charitable contributions, eliminating the Form 1041 filing requirement. Others were determined to have been misclassified in IRS records or had applied for and received tax exemption. The remaining entities filed the required returns and paid the delinquent tax, or were referred for further examination.

The chart below details the findings of the compliance check letters:

	Number
Eligible for set-aside deduction	125
Filed correct returns	10
Required examinations	15
IRS classification corrected	20

- *Political Activities Compliance Initiative (PACI).* This initiative addressed allegations of prohibited political campaign activities by 501(c)(3) organizations.

Treasury and the IRS issued a revenue ruling to educate section 501(c)(3) exempt organizations about permissible and impermissible activities in the political arena. Additionally, EO updated Publication 1828, *Tax Guide for Churches and Religious Organizations*. EO also provided guidance about

political activities in public presentations, including the IRS Nationwide Tax Forums and *Tax Talk Today*, the IRS web-based program for practitioners.

In addition to guidance and education, EO has examined over 250 organizations based on allegations of political activity during the 2004, 2006 and 2008 federal election years. EO substantiated the allegations in over half of the examinations and closed most of these with a warning to comply with the ban on political activities in the future. EO revoked the tax-exempt status of seven non-compliant organizations.

The chart below tracks the most common types of PACI allegations: *

ALLEGATION	2004	2006	2008
1. Exempt organization distributed printed documents supporting candidates.	24	14	24
2. Church official made a statement during normal services endorsing candidates.	19	14	47
3. Candidate spoke at an official EO function.	11	16	2
4. Organization distributed improper voter guides or candidate ratings.	14	8	3
5. Organization posted a sign on its property endorsing a candidate.	12	13	11
6. Organization endorsed candidates on its website or through links on its website.	15	11	16
7. Organization official verbally endorsed a candidate.	8	5	2
8. Organization made a political contribution to a candidate.	7	11	12
9. Organization allowed a non-candidate to endorse a candidate during a speech at the organization function.	4	2	1
10. Other	0	16	15
TOTAL	114	110	133

* Because the majority of complaints for the 2010 election year came in during the later part of the year, they are still going through the classification process, so they are not included in the chart.

As we move review of allegations of political campaign intervention from project to process, the guidance and expertise developed over the past few election cycles will enable us to continue to handle these allegations appropriately, both at the classification stage and through the examination process.

- *Qualified State and Local Political Organizations (QSLPO) Project.* In 2002, Congress enacted legislation creating a sub-category of IRC section 527

political organizations known as Qualified State and Local Political Organizations, or QSLPOs. These organizations were required to notify the IRS of their “QSLPO” status by electronically filing Form 8871. This status exempts them from the requirement to file Form 8872.

After the law change, approximately 3,600 organizations identified themselves as QSLPOs and stopped filing Forms 8872.

In response, EO launched the QSLPO project to ascertain the accuracy of these organizations’ claims. EO identified a statistically valid sample of QSLPOs and sent each one a compliance questionnaire.

Overall, our findings indicate that organizations are correctly identifying themselves as QSLPOs and therefore have no Form 8872 filing requirements.

- *Supporting Organizations- The 509(a)(3) Compliance Project.* Supporting organizations (SOs) are charities that carry out their exempt purposes by assisting other exempt organizations, usually other public charities. The key feature of an SO is a strong relationship with the organization that it supports.

Prior to the Pension Protection Act of 2006, some promoters encouraged individuals to establish and operate SOs for their own benefit. Some of these scenarios involved purported charitable contributions made to the supporting organization, which were then returned to the donor, often in the form of a loan. To disguise this abuse, the transaction was sometimes routed through intermediary organizations controlled by the promoter.

EO took a two-pronged approach to combat this abuse. First, EO issued new instructions to Determinations agents to identify potentially noncompliant SOs at the application stage. Then, over the span of the project, EO selected over 300 organizations for examination; of the 280 examinations closed thus far, 30 were terminated, 72 had their exempt status revoked and 59 were reclassified as either private foundations or public charities.

The Pension Protection Act drastically changed the legal landscape and rules regarding the operation of supporting organizations. Congress imposed additional restrictions on certain types of SOs and addressed certain abuses.

In light of what we have learned through the various enforcement activities discussed above, the resources we have developed for our staff and the public, and changes resulting from legislation, we are winding down separate projects and incorporating them into overall compliance processes.

EO Supports and Collaborates

Support of IRS Initiatives – This year, EO will support five overarching IRS focus areas:

- *Impact of Recent Legislation.* With the passage of several pieces of legislation, EO is working with the whole of IRS to implement effective changes and laws.
 - The Affordable Care Act (ACA) was enacted on March 23, 2010. It contains certain tax provisions that take effect this year and more that will be implemented during the next several years.

Several provisions, primarily those involving tax-exempt hospitals and exempt organizations as employers, fall under the purview of EO.

Each of the EO offices has a role in putting together a comprehensive program to implement the changes and fulfill ACA requirements. Customer Education and Outreach (CE&O), working with the other IRS Communication offices, will educate the public on those aspects of the ACA impacting exempt organizations; Rulings & Agreements will analyze new legal issues raised by the legislation, work with Chief Counsel and Treasury on related guidance, and coordinate with other IRS offices to implement appropriate form changes; Determinations anticipates an increase in tax-exempt applications; and Examinations will establish a separate EOCA group to focus on healthcare-related compliance issues.

- The Hiring Incentives to Restore Employment (HIRE) Act was signed into law on March 18, 2010. The legislation identified tax-exempt organizations as employers eligible to claim the payroll tax exemption and new hire retention credit for eligible newly-hired employees.

Beginning in July 2010, the EOCA began conducting examinations of these credits claimed under the HIRE Act.

- The American Recovery and Reinvestment Act (ARRA) established a 65 percent subsidy on COBRA health insurance premiums to help workers who lost their jobs as a result of the recession maintain their employer sponsored health insurance.

The Continuing Extension Act of 2010, enacted April 15, reinstated the ARRA COBRA subsidy, which had expired on March 31.

Employers, including tax-exempt organizations other than churches and some religious organizations, were required to provide COBRA coverage to eligible individuals who pay 35 percent of the COBRA

premium. Employers were reimbursed for the other 65 percent by claiming a credit for the subsidy on their Form 941 or Form 944. Employers, including tax-exempt organizations, are required to maintain supporting documentation for the claimed credit.

EO will be examining the employment tax returns of organizations claiming the credit for the subsidy.

- *International Focus.* International tax enforcement is an ongoing priority for the IRS. Taxpayers with international activities, transactions and accounts pose unique compliance issues for the IRS. Globalization of markets, taxpayers and transactions affect all segments of our economy, including the exempt sector.

EO's concern in this area is whether charitable assets of exempt organizations are being diverted internationally for non-charitable purposes. We have efforts underway that will explore:

- foreign entities receiving IRS recognition of exemption from US tax;
- information referred from the Joint International Tax Shelter Information Center (JITSIC);
- charities reporting foreign addresses on Forms 990;
- charities that participate in "Gifts-in-Kind" programs, where valuation issues surface when charities send non-cash items to foreign organizations; and
- large private foundations with international operations or international transactions.

To help educate the sector, EO is developing new publications describing the special rules that apply to both foreign charities and domestic charities that conduct activities abroad.

- *Medical Residents.* IRS worked with Government Entities, the Chief Counsel's Office, Wage & Investment, Small Business/Self-Employed and the Social Security Administration to develop a comprehensive program to except medical residents from FICA (Social Security and Medicare tax) taxes based on the student exception for certain tax periods.

Beginning in May 2010, the Service began contacting hospitals, universities and medical residents who filed FICA refund claims, in order to provide them with additional information and procedures for obtaining their refunds.

- *National Research Program – Study of Employment Tax Returns.* IRS estimates employment tax misreporting constitutes a large part of the tax gap—close to \$54 billion per year. In light of this sizeable amount, the Service has updated its understanding of compliance in this area and has implemented a comprehensive IRS-wide study to measure compliance,

improve IRS ability to detect and reduce non-compliance, and ensure the fairness of the tax system. Specifically, the National Research Program (NRP) project looks at employment tax on both taxable and tax-exempt organizations, large and small businesses, and the government sector.

Because tax-exempt organizations have the same responsibilities as for-profit businesses to properly classify workers and report and pay employment taxes, EO has been participating with other IRS operating divisions in the NRP.

EO's portion of the project involves examining the employment tax returns of 1500 organizations, with 500 selected randomly each year over a three-year period. Specific areas of interest during the examinations are worker classification, fringe benefits, officer compensation, employee expense reimbursements, and non-filers. Tax year 2008 returns are currently being examined, and examinations of tax year 2009 returns will begin in early FY 2011.

The results of this project will contribute toward developing and refining Servicewide procedures for auditing, processing and resolving employment tax return cases.

- *Non-filer Initiatives.* The goals of the IRS' Servicewide Non-filer Strategy are to:
 - Help taxpayers understand and meet their filing obligations;
 - Improve voluntary compliance by reducing taxpayer burden;
 - Leverage technology to identify non-filers; and
 - Effectively use enforcement resources to deter non-filers.

EO will pursue several avenues to help support this Servicewide effort. Working with the TE/GE Research Office, we are collecting data about organizations with erratic filing patterns. To begin this effort, the EOCA will conduct compliance checks on intermittent filers in early FY 2011.

Collaboration With External Stakeholders – Collaborating with external stakeholders and leveraging their resources makes us more efficient and improves the final product. For FY 2011, we have planned the following joint efforts:

- *Academic Institutions Initiative.* In 2009, EO established its Academic Institutions Initiative to work with educational entities that work to develop, cultivate and promote professionals who shape the non-profit sector. Our goal is to help prepare the non-profit leaders of the future by providing consistent training about federal tax law responsibilities.

A September 2009 kick-off meeting generated a number of helpful ideas from educational institutions. In FY 2010, EO began implementing those recommendations by placing resources for educators on StayExempt.IRS.gov, co-sponsoring workshops for small and mid-size exempt organizations with universities, and identifying and collaborating with existing educational networks, such as the National Association of Schools of Public Affairs and Administration (NASPAA) and the Nonprofit Academic Centers Council (NACC).

In FY 2010, CE&O hosted its first-ever workshop for small and mid-size 501(c)(3) organizations in conjunction with an academic host institution. In FY 2011, CE&O will continue to expand its partnerships with existing educational networks across the country. At least eight additional similar workshops have been scheduled for the first half of FY 2011.

Also in FY 2011, CE&O will develop a page on IRS.gov specifically geared toward educators. Additionally, we will begin offering an internship program for graduate students whose concentration lies in nonprofit leadership and management. The graduate student internship program will broaden our reach to interact with a new generation of non-profit leaders. EO hopes to gain a better understanding of current nonprofit education while offering students the chance to deepen their knowledge base and become familiar with Federal tax provisions that govern exempt organizations.

- *Gaming Non-Filer Project.* Beginning in 2007, EO secured information from 17 state gaming regulatory tax agencies to cross-reference with its own Form 990 database. We discovered a large number of organizations had filed at the state level in order to maintain eligibility to continue gaming activities, but had not filed Form 990 with the IRS.

In response, we initiated examinations and have thus far secured over 1,300 delinquent returns in the cases closed. These include information, tax and employment returns.

EO will continue to expand its cooperative efforts with state regulators to identify organizations conducting gaming activities that may have federal filing requirements, and educate these organizations about their filing obligations

EO Invests

EO will continue to invest time in both new and ongoing initiatives in order to keep up with the ever-changing exempt organization sector. With these initiatives, EO will touch a broader audience of exempt organizations.

- *Controlling Organizations- The IRC §512(b)(13) Project.* The tax treatment of payments between controlled entities and their controlling tax-exempt parent organizations touches on several areas of tax law including unrelated business income, the allocation of income and deductions among taxpayers, and the transfer of property to controlled organizations.

PPA 2006 made changes to the tax treatment of certain payments from a controlled entity to its exempt parent. The IRS is gathering information on this issue through the Colleges and Universities project and other exam initiatives. The information collected will give us a better understanding of the prevalence of 512(b)(13) and related issues.

- *Charitable Spending Initiative.* This is a study to learn more about sources and uses of funds in the charitable sector and their relationship to the accomplishment of charitable purposes. Under the first phase of this project, organizations selected for examination include those with high levels of fundraising expenses, organizations reporting unrelated trade or business activity with relatively low levels of program service expenditures, organizations with high ratios of officer compensation in comparison to program service expenditures, and organizations with low levels of program service expenditures in comparison to total revenue. These examinations began in FY 2010 and will continue into FY 2011.
- *Colleges and Universities.* In September 2008, EO sent 400 questionnaires to public and private four-year colleges and universities asking about their unrelated business income, endowments and executive compensation practices. The goal is to gain a better understanding of one of the largest, most complex segments in our sector and identify issues and areas that may need more outreach and education or further scrutiny. EO analyzed the responses and an interim report was published in May 2010. The interim report contained preliminary information on the respondents' organizational structures, demographics, exempt and unrelated business activities, endowments, executive compensation and governance practices.

In addition, over 30 entities are undergoing examinations that focus on unrelated business income and compensation practices. Because some of the issues under consideration may affect other areas of TE/GE (specifically, Employee Plans and Federal State and Local Governments), we are coordinating with those offices when appropriate, along with utilizing engineering assistance.

- *Exempt Organizations Services and Assistance (EOSA)*. The objective of EOSA research project is to study the communications preferences and educational needs of small tax-exempt organizations and to develop a targeted multi-year outreach plan to provide improved education and outreach services to these organizations.

CE&O, working with TE/GE Research, initiated this project which involves three phases: 1) focus groups; 2) a quantitative analysis based on telephone surveys; and 3) a cost-benefit analysis.

- *Form 990-N Mis-filers*. The Pension Protection Act of 2006 added the Form 990-N filing requirement to ensure that the IRS and potential donors have current information about exempt organizations. Small tax-exempt organizations whose annual gross receipts are normally \$25,000 or less may be required to electronically submit Form 990-N, also known as the e-Postcard, unless they choose to file a complete Form 990 or Form 990-EZ. The failure of an organization that is required to file a Form 990 series return for three consecutive years results in automatic revocation of the organization's exempt status.

The objective of this project is to identify organizations that incorrectly file the Form 990-N.

- *Form 990 as a Compliance Tool*. The Form 990 is the IRS' primary tool to increase transparency and to promote and enforce compliance with Federal tax law. The recent design brings the Form 990 into the 21st century, reflecting changes in the tax-exempt sector and the tax law. It helps secure fuller, more relevant compliance data and provides a more comprehensive picture of each filing organization.

As more organizations file the redesigned Form 990, EO Examinations will use the updated form to identify non-compliant and potentially non-compliant organizations for examination, to develop targeted compliance projects and to inform and supplement educational efforts.

In FY 2011, EO will continue to work with our research office to develop more robust risk models and refine compliance queries to promote a more finely-tuned compliance approach and more tailored education efforts.

- *Governance*. Starting in FY 2010, EO began using a check sheet to capture governance practices and the related internal controls of the organizations being examined. EO will analyze the data over the long term to gain a better understanding of the intersection between governance practices and tax compliance.

- *Mortgage Foreclosure Assistance.* Over the past few years, there has been an increase in foreclosures, as well as exempt organizations that have become involved in foreclosure assistance activities. This project is modeled after the successful EO credit counseling project that took place several years ago. EO is developing enhancements to its examinations program and refining its determinations program to better identify potential abuses in the system.

The focus of the project will be to determine whether organizations are engaged in foreclosure assistance activities, whether their activities are fulfilling their exempt purpose in accordance with the Internal Revenue Code section under which they are recognized as tax-exempt, and whether they are complying with the requirements of section 501(q) of the Code (when applicable).

- *“Mutual” Organizations- The IRC §501(c)(12) Project.* Organizations exempt under section 501(c)(12) include benevolent life insurance associations of a purely local character, mutual ditch or irrigation companies, or cooperative telephone companies. An organization that performs any comparable service can also qualify.

These organizations must use their income solely to cover losses and expenses, with any excess being returned to members or retained for future losses and expenses. They must collect at least 85 percent of their income from members for the sole purpose of meeting losses and expenses. The results of the member-income "test" determine the organization's yearly filing requirement. An organization should file Form 990 for the years in which it meets the 85 percent member-income test, and it should file Form 1120 for the years in which it fails to meet the test.

The Forms 990 filed by some section 501(c)(12) organizations indicate that these organizations are not meeting the 85 percent member-income test every year. To address this issue, questionnaires were mailed to affected organizations in early FY 2010, and 40 percent of the questionnaire respondents were selected for examination. In FY 2011, we will begin conducting these examinations.

- *Section 501(c)(4), (5) and (6) Organizations.* In recent years, our examination program has concentrated on section 501(c)(3) organizations. Beginning in FY 2011, we are increasing our focus on section 501(c)(4), (5) and (6) organizations. With the additional information available on the new Form 990, we will look at issues including political activity, inurement and the extent of compliance with the requirements for tax exemption by organizations that self-identified themselves as a section 501(c)(4), (5) or (6) organization

- *Voluntary Employees' Beneficiary Associations (VEBAs)*. A voluntary employees' beneficiary association is defined under Internal Revenue Code section 501(c)(9) as an organization designed to pay life, sick, accident and similar benefits to members, their dependents or designated beneficiaries as long as no part of the net earnings of the association inures to the benefit of any private shareholder or individual.

Working with EP and IRS Counsel, EO developed a project to learn more about VEBAs and their compliance under this section of the code. In FY 2010, EO developed training materials and initiated its training program. These activities will continue during FY 2011. EO Examinations will begin a statistically valid sample of 100 organizations with assets greater than \$100,000 in FY 2011.

IRS Announces New Voluntary Worker Classification Settlement Program; Past Payroll Tax Relief Provided to Employers Who Reclassify Their Workers

IR-2011-95, Sept. 21, 2011

WASHINGTON – The Internal Revenue Service today launched a new program that will enable many employers to resolve past worker classification issues and achieve certainty under the tax law at a low cost by voluntarily reclassifying their workers.

This new program will allow employers the opportunity to get into compliance by making a minimal payment covering past payroll tax obligations rather than waiting for an IRS audit.

This is part of a larger “Fresh Start” initiative at the IRS to help taxpayers and businesses address their tax responsibilities.

“This settlement program provides certainty and relief to employers in an important area,” said IRS Commissioner Doug Shulman. “This is part of a wider effort to help taxpayers and businesses to help give them a fresh start with their tax obligations.”

The new Voluntary Classification Settlement Program (VCSP) is designed to increase tax compliance and reduce burden for employers by providing greater certainty for employers, workers and the government. Under the program, eligible employers can obtain substantial relief from federal payroll taxes they may have owed for the past, if they prospectively treat workers as employees. The VCSP is available to many businesses, tax-exempt organizations and government entities that currently erroneously treat their workers or a class or group of workers as nonemployees or independent contractors, and now want to correctly treat these workers as employees.

To be eligible, an applicant must:

- Consistently have treated the workers in the past as nonemployees,
- Have filed all required Forms 1099 for the workers for the previous three years
- Not currently be under audit by the IRS
- Not currently be under audit by the Department of Labor or a state agency concerning the classification of these workers

Interested employers can apply for the program by filing [Form 8952](#), Application for Voluntary Classification Settlement Program, at least 60 days before they want to begin treating the workers as employees.

Employers accepted into the program will pay an amount effectively equaling just over one percent of the wages paid to the reclassified workers for the past year. No interest or penalties will be due, and the employers will not be audited on payroll taxes related to these workers for prior years. Participating employers will, for the first three years under the program, be subject to a special six-year statute of limitations, rather than the usual three years that generally applies to payroll taxes.

Full details, including FAQs, will be available on the [Employment Tax pages of IRS.gov](#), and in [Announcement 2011-64](#).

Part IV - Items of General Interest

Voluntary Classification Settlement Program

This document provides notice and details regarding a new Internal Revenue Service Voluntary Classification Settlement program that provides partial relief from federal employment taxes for eligible taxpayers that agree to prospectively treat workers as employees.

Announcement 2011-64

I. PURPOSE

The Internal Revenue Service (IRS) has developed a new program to permit taxpayers to voluntarily reclassify workers as employees for federal employment tax purposes. The Voluntary Classification Settlement Program (VCSP) allows eligible taxpayers to voluntarily reclassify their workers for federal employment tax purposes and obtain relief similar to that obtained in the current Classification Settlement Program (CSP). The VCSP is optional and provides taxpayers with an opportunity to voluntarily reclassify their workers as employees for future tax periods with limited federal employment tax liability for the past nonemployee treatment. To participate in the program, the taxpayer must meet certain eligibility requirements, apply to participate in VCSP, and enter into a closing agreement with the IRS.

II. BACKGROUND

Whether a worker is performing services as an employee or as an independent contractor depends upon the facts and circumstances and is generally determined under the common law test of whether the service recipient has the right to direct and control the worker as to how to perform the services. In some factual situations, the determination of the proper worker classification status under the common law may not be clear. For taxpayers under IRS examination, the current CSP is available to resolve federal employment tax issues related to worker misclassification, if certain criteria are met. The examination CSP permits the prospective reclassification of workers as employees, with reduced federal employment tax liabilities for past nonemployee treatment. The CSP allows business and tax examiners to resolve the worker classification issues as early in the administrative process as possible, thereby reducing taxpayer burden and providing efficiencies for both the taxpayer and the government.

In order to facilitate voluntary resolution of worker classification issues and achieve the resulting benefits of increased tax compliance and certainty for taxpayers, workers and the government, the IRS has determined that it would be beneficial to provide taxpayers with a program that allows for voluntary reclassification of workers as employees outside of the examination context and without the need to go through normal administrative correction procedures applicable to employment taxes.

III. ELIGIBILITY

The VCSP is available for taxpayers who want to voluntarily change the prospective classification of their workers. The program applies to taxpayers who are

currently treating their workers (or a class or group of workers) as independent contractors or other nonemployees and want to prospectively treat the workers as employees. To be eligible, a taxpayer must have consistently treated the workers as nonemployees, and must have filed all required Forms 1099 for the workers for the previous three years. The taxpayer cannot currently be under audit by the IRS. Furthermore, the taxpayer cannot be currently under audit concerning the classification of the workers by the Department of Labor or by a state government agency. A taxpayer who was previously audited by the IRS or the Department of Labor concerning the classification of the workers will only be eligible if the taxpayer has complied with the results of that audit.

IV. EFFECT OF VCSP

A taxpayer who participates in the VCSP will agree to prospectively treat the class of workers as employees for future tax periods. In exchange, the taxpayer will pay 10 percent of the employment tax liability that may have been due on compensation paid to the workers for the most recent tax year, determined under the reduced rates of section 3509 of the Internal Revenue Code; will not be liable for any interest and penalties on the liability; and will not be subject to an employment tax audit with respect to the worker classification of the workers for prior years. Additionally, a taxpayer participating in the VCSP will agree to extend the period of limitations on assessment of employment taxes for three years for the first, second and third calendar years beginning after the date on which the taxpayer has agreed under the VCSP closing agreement to begin treating the workers as employees.

V. APPLICATION PROCESS

Eligible taxpayers who wish to participate in the VCSP must submit an application for participation in the program. Information about the VCSP and the application will be available on www.irs.gov. Along with the application, the name of a contact or an authorized representative with a valid Power of Attorney (Form 2848) should be provided. The IRS will contact the taxpayer or authorized representative to complete the process once it has reviewed the application and verified the taxpayer's eligibility. The IRS retains discretion whether to accept a taxpayer's application for the VCSP. Taxpayers whose application has been accepted will enter into a closing agreement with the IRS to finalize the terms of the VCSP and will simultaneously make full and complete payment of any amount due under the closing agreement.

VI. DRAFTING INFORMATION

The principal author of this announcement is Joseph Perera of the Office of the Division Counsel/Associate Chief Counsel (Tax Exempt & Government Entities). For further information regarding this announcement contact Joseph Perera at 202-622-6040 (not a toll-free call).

NONPROFIT INTEGRITY ACT OF 2004

SUMMARY OF KEY PROVISIONS

Effective January 1, 2005

Applies To

■ Charities

■ Commercial Fundraisers

■ Fundraising Counsels

■ Unincorporated Associations

■ Trusts

Attorney General
Bill Lockyer

October 2004

1. Charitable Organizations Have 30 Days, Instead Of Six Months, To Register And File Articles Of Incorporation With The Attorney General's Registry Of Charitable Trusts [Government Code section 12585]

▶ Charitable corporations, unincorporated associations and trusts must file with the Attorney General articles of incorporation, or other documents governing the organization's operations, (e.g., articles of association or trust instrument) within 30 days after initial receipt of property.

2. Independent Audit Of Annual Financial Statements Now Required For Charities With Gross Revenues Of \$2 Million Or More [Government Code section 12586(e)(1)]

▶ Charitable corporations with gross revenues of \$2 million or more must prepare annual financial statements audited by an independent certified public accountant (CPA). The statements must use generally accepted accounting principles. The independent CPA must follow generally accepted auditing standards.

▶ If the accounting firm and CPA performing the audit also provides non-audit services to the nonprofit, the accounting firm and CPA must follow the independence standards in the Yellow Book issued by the U.S. Comptroller General.

▶ The audited financial statements must be made available for inspection by the Attorney General and the public no later than nine months after the close of the fiscal year covered by the financial statement.

▶ The audit requirement applies to charitable corporations, unincorporated associations and trustees required to register and file reports with the Attorney General, whenever such organizations accrue \$2 million or more in gross revenue in any fiscal year.

▶ The \$2 million-threshold excludes grants received from governmental entities, if the nonprofit must provide an accounting of how it used the grant funds.



3. Charities With Gross Revenues Of \$2 Million Or More Must Establish And Maintain An Audit Committee [*Government Code section 12586(e)(2)*]

- ▶ Requirements for an audit committee apply only to charitable corporations that must register and file reports with the Attorney General, whenever such organizations accrue \$2 million or more in gross revenue in any fiscal year.
- ▶ \$2 million-threshold excludes grants received from governmental entities, if the nonprofit must provide an accounting of how it uses the grant funds.
- ▶ Governing boards must appoint an audit committee. The audit committee may include persons who are not members of the governing board.
- ▶ The audit committee cannot include staff members, the president or chief executive officer, the treasurer or chief financial officer of the organization. If an organization has a finance committee, members of that committee may serve on the audit committee, but cannot comprise 50 percent or more of the audit committee. The chairperson of the audit committee may not be a member of the finance committee.
- ▶ The audit committee, under the governing board's supervision, is responsible for making recommendations to the board on the hiring and firing of independent certified public accountants (CPAs). The audit committee can negotiate the independent CPA's compensation, on behalf of the governing board.
- ▶ The audit committee must:
 - Confer with the auditor to satisfy committee members that the financial affairs of the nonprofit organization are in order;
 - Review the audit and decide whether to accept it; and
 - Approve non-audit services by the independent CPAs accounting firm, and ensure such services conform to standards in the Yellow Book issued by the U.S. Comptroller General.

4. Executive Compensation By Charitable Corporations, Unincorporated Associations And Charitable Trusts Must Be Review And Approved [*Government Code section 12586(g)*]

- ▶ Charitable corporations and unincorporated associations must have their governing board or authorized board committee review and approve the compensation of the Chief Executive Officer or President, and the compensation of the Chief Financial Officer or treasurer, to ensure that the payment is "just and reasonable."

▶ All trustees of a charitable trust must review and approve any executive compensation to ensure it is “just and reasonable.”

▶ The review and approval must occur at the time of initial hiring, when the term is renewed or extended, and when the compensation is modified.

▶ Compensation includes benefits.

5. Commercial Fundraisers Must Notify Attorney General Before Starting A Solicitation Campaign *[Government Code section 12599(h)]*

▶ Commercial fundraisers for charitable purposes must report to the Attorney General’s Registry of Charitable Trusts the start of a solicitation campaign or event. This notice must be filed not less than 10 working days prior to the start of a solicitation campaign or event.

▶ If proceeds are intended for victims of disasters or emergencies, the commercial fundraiser must file the required disclosure report no later than the date on which the campaign begins. The report must include:

- The Identity of the commercial fundraiser;
- The name of the organization for whom donations are being solicited;
- The name of the person directing and supervising the fundraiser’s work within the commercial fundraising company; and
- Projected start and end dates for the commercial fundraiser’s work.

6. Commercial Fundraisers Must Have Written Contracts With The Charitable Organizations For Whom They Are Working *[Government Code section 12599(i)]*

▶ For every solicitation campaign or event produced by a commercial fundraiser for a charitable organization, there must be a written contract between the fundraiser and the charitable organization.

▶ The written contract must contain or state:

- The charitable purpose for which the solicitation campaign or event is being conducted.
- The respective obligations of the commercial fundraiser and charitable organization.

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- If the commercial fundraiser will be paid a fixed fee, the amount of the fee and a good faith estimate of what percentage of the total contributions the fee will comprise. The contract must clearly set forth the assumptions on which the good faith estimate is based.
 - If the commercial fundraiser will be paid a percentage fee, the percentage of total contributions the charitable organization will retain. If the solicitation involves the sale of goods or services, or sale of admission to an event, the contract must state the percentage of the purchase price the charitable organization will retain. The percentage must be calculated by subtracting from total contributions and sales receipts not only the commercial fundraiser's fee, but also any additional fundraising costs the charitable organization must pay.
 - The effective date and terminate date of the contract, and the date the solicitation will start in the state.
 - A provision setting forth the requirement that all contributions received by the commercial fundraiser must, within five working days of receipt, either be deposited in a bank account controlled by the charitable organization or delivered in person to the charitable organization.
 - The charitable organization controls and approves the content and frequency of any solicitation.
 - The maximum amount the commercial fundraiser plans to pay individuals or entities to secure any person's attendance at, or approval, sponsorship or endorsement of, a fundraising event.
 - Provisions specifying that the charitable organization has a right to cancel the contract without liability for 10 days following the date the contract is executed. The organization may cancel the contract with 30-days notice and payment for services provided by the commercial fundraiser for up to 30 days after the notice is served.
 - Provisions specifying that after the initial 10-day period, the charitable organization has a right to cancel the contract for any reason without liability if the commercial fundraiser or its agents make material misrepresentations, harm the charitable organization's reputation or are found to have been convicted of a crime arising from charitable solicitations.
 - Any other information required by regulations adopted by the Attorney General.
- ▶ The contract must be signed by the commercial fundraiser's authorized contracting officer and an official of the charitable organization authorized to sign by the governing board.

7. Charitable Organizations Can Void Contracts With Unregistered Commercial Fundraisers *[Government Code section 12599.3(a)]*

- ▶ Contracts between commercial fundraisers for charitable purposes and charitable organizations are voidable unless the commercial fundraiser is registered with the Attorney General's Registry of Charitable Trusts prior to the start of the solicitation campaign or event.

8. FUNDRAISING COUNSEL MUST NOTIFY ATTORNEY GENERAL BEFORE STARTING SOLICITATION CAMPAIGN

[Government Code section 12599.1(e)]

- ▶ Fundraising counsel must file a notice with the Attorney General's Registry of Charitable Trusts not less than 10 working days prior to the start of a solicitation campaign or event; or if the purpose is to raise funds for victims of disasters or emergencies, no later than the date on which the campaign begins.
- ▶ The form of notice will be specified by the Attorney General's Registry of Charitable Trusts.
- ▶ The information that must be reported includes: the commercial fundraiser's name, address and telephone number; the name, address and telephone number of the organization with whom the fundraising counsel has contracted; the name, address and telephone number of the person who will direct and supervise the work of the fundraising counsel; and the projected dates when the contract will begin and end.

9. Fundraising Counsel Must Have Written Contracts With Charitable Organizations *[Government Code section 12599]*

- ▶ For every solicitation campaign or event, there must be a written contract between the fundraising counsel and the charitable organization. The contract must be signed by the fundraising counsel's authorized contracting officer and an official of the charitable organization authorized to sign by the governing board.
- ▶ The written contract must contain or state:
 - The charitable purpose for which the solicitation campaign or event is being conducted.
 - The respective obligations of the fundraising counsel and charitable organization.

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- A statement that the fundraising counsel will neither solicit, receive nor control donated funds, assets and property, or employ any other person to do so.
- A statement that the charitable organization exercises control and approval over the content and frequency of solicitation.
- A clear statement of the fees and any other forms of compensation that will be paid to the fundraising counsel.
- The effective date and terminate date of the contract, and the date the solicitation will start in the state.
- Provisions specifying the charitable organization's right to cancel the contract without liability for 10 days following the date the contract is executed; and right to cancel the contract after the initial period by giving 30-days notice and payment for services provided by the fundraising counsel up to the effective date of the notice.
- Any other information required by regulations adopted by the Attorney General.

10. Charitable Organizations Can Cancel Contracts With Commercial Fundraisers *[Government Code sections 12599.3(b)(f)(g)]*

- ▶ Charitable organizations have the right to cancel a contract with a commercial fundraiser without liability for 10 days following the date the contract is executed.
- ▶ Following the initial 10-day period, charitable organizations have the right to cancel a contract with a commercial fundraiser by providing 30-day notice. The charitable organization is liable for services provided by the commercial fundraiser up to 30 days after the notice is served.
- ▶ Following the initial 10-day period, a charitable organization has the right to cancel a contract with a commercial fundraiser without liability if the commercial fundraiser or its agents make material misrepresentations during a solicitation, harm the charitable organization's reputation during a solicitation, or are found to have been convicted of a crime arising from fundraising activities.

11. Charitable Organizations And Commercial Fundraisers For Charitable Purposes Have Specific Obligations When Fundraising *[Government Code sections 12599.6(a)(b)(c)(d)(e)]*

- ▶ Charitable organizations and commercial fundraisers cannot misrepresent the purpose of a charitable organization, or the nature or purpose of the beneficiary of a solicitation.

▶ Charitable organizations must establish and exercise control over fundraising activities conducted for their benefit. This obligation includes approving all written contracts and agreements, and assuring fundraising activities are conducted without coercion.

▶ Charitable organizations cannot enter into any contract or agreement with a commercial fundraiser that is not registered with the Attorney Generals Registry of Charitable Trusts.

▶ Charitable organizations cannot raise funds for any charitable organization required to be registered with the Attorney Generals Registry of Charitable Trusts unless the charitable organization is so registered or, if not, agrees to register prior to the start of a solicitation.

▶ Commercial fundraisers must, within five working days, either deposit in a bank account controlled by the charitable organization or deliver personally to the charitable organization all contributions received on behalf of the charitable organization.

12. Charitable Organizations And Commercial Fundraisers For Charitable Purposes Are Prohibited From Engaging In Misrepresentation And Certain Other Acts When Soliciting Donations

[Government Code section 12599.6(f)]

▶ The following acts are prohibited in the planning, conduct or execution of solicitation campaigns:

- Operating in violation of the Supervision of Trustees and Fundraisers for Charitable Purposes Act [Govt. Code sec. 12580 et seq.], regulations and orders issued by the Attorney General.
- Committing unfair or deceptive acts, or engaging in fraudulent conduct.
- Using any name, symbol, emblem or other information that falsely suggests or implies a contribution is for a particular charitable organization.
- Falsely telling donors that a contribution is for a charitable organization or will be used for a charitable purpose.
- Telling donors that a person sponsors, endorses or approves a charitable solicitation when that person has not agreed in writing to have their name used for such a purpose.
- Misrepresenting that goods or services have endorsements, sponsorships, approvals, characteristics or qualities they do not have.
- Misrepresenting that a person has endorsements, approvals, sponsorships, status or affiliations they do not have.

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- Misrepresenting that registration with the Attorney General's Registry of Charitable Trusts constitutes an endorsement or approval by the Attorney General.
- Representing that a charitable organization will receive an amount greater than the reasonably estimated net proceeds from a solicitation campaign or event.
- Issuing cards, stickers, emblems, plates or other items that can be used for display on a motor vehicle, and which suggest an affiliation with, or endorsement by, public safety personnel or a group of public safety personnel.
- Representing that any portion of contributions solicited by a charitable organization will be given to another charitable organization unless the second charitable organization provides prior written consent for such use of its name.
- Representing that tickets to events will be donated for use by another person or entity unless: the charitable organization or commercial fundraiser has obtained written commitments from charitable organizations that they will accept a specific number of donated tickets; and the donated tickets, when combined with other ticket donations, do exceed either the ticket donations received from charitable organizations or the total capacity of the event site.

13. Commercial Fundraisers Must Keep Records Of Solicitation Campaigns For At Least 10 Years [Government Code section 12599.7(a)]

- ▶ Commercial fundraisers must maintain for at least 10 years following each solicitation campaign records that contain:
 - The date and amount of each cash contribution.
 - The date, amount, name and address of each non-cash contributor.
 - The name and address of each employee or agent involved.
 - Documentation of all revenue received and expenses incurred.
 - For each account into which the fundraiser deposited revenue, the account number and name and location of the bank or other financial institution in which the account was maintained.

Charities, Commercial Fundraisers, Fundraising Counsels, Unincorporated Associations and Trusts with Questions About the New Law Can Contact
The Attorney General's Charitable Trust Staff by e-mail:

belinda.johns@doj.ca.gov - Deputy Attorney General Belinda Johns

james.cordi@doj.ca.gov - Deputy Attorney General James Cordi

Charities - Nonprofit Integrity Act of 2004

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1. To whom does the Nonprofit Integrity Act of 2004 apply?

The Nonprofit Integrity Act of 2004 amended existing law, including the Supervision of Trustees and Fundraisers for Charitable Purposes Act (Government Code sections 12580-12599.7), which requires registration and annual reporting by all charitable corporations, unincorporated associations, trustees, and other legal entities holding property for charitable purposes, commercial fundraisers for charitable purposes, fundraising counsel for charitable purposes, and commercial coventurers, over which the Attorney General has enforcement or supervisory powers. The Nonprofit Integrity Act of 2004 did not alter the range of persons and entities that are subject to the registration and reporting requirements.

The law's application is not limited to entities that are tax exempt under section 501(c)(3) of the Internal Revenue Code, which pertains to charities. With certain limited exceptions, the law applies to any person holding money or property for charitable purposes. This includes entities that are tax exempt under other subsections of section 501(c), entities that are not tax exempt, and for-profit entities, if, apart from their general purposes, they hold assets for charitable purposes. If, for example, a social club or fraternal organization holds a fundraising event for a charitable purpose, such as creation of a college scholarship fund, the moneys it collects are held as a charitable trust and it is subject to the law.

The law applies to all foreign charitable corporations (corporations formed under the laws of other states) doing business or holding property in California for charitable purposes. Doing business in California includes soliciting donations in California by mail, by advertisements in publications, or by any other means from outside of California that satisfy the constitutional "minimum contacts"

test. Other examples of doing business in California include engaging in any of the following activities in California: holding meetings of the board of directors or corporate members here, maintaining an office here, having officers or employees who perform work here, and/or conducting charitable programs here.

In general, if a foreign charity's sole contact with California is that it makes grants to persons, programs or charitable organizations located in California, or maintains financial accounts or investments at an office of a financial institution located in California, it is not considered to be doing business in California for purposes of compliance with Government Code section 12580 et seq.

The law applies to all commercial fundraisers for charitable purposes who solicit charitable donations, including donations of salvageable personal property, in California, or who receive any funds, assets, or property as a result of a solicitation in this state for charitable purposes, or who employ any compensated person to solicit, receive, or control funds, assets, or property for charitable purposes here.

The law applies to all fundraising counsel for charitable purposes who for compensation plan, manage, advise, counsel, consult, or prepare material for any charitable solicitation in this state.

(Government Code sections 12581, 12582, 12582.1, 12583, 12586(a), 12599(a), 12599.1(a); Business and Professions Code section 17510.)

2. What is included in "gross revenue" for the purpose of determining whether a charity must prepare audited financial statements under Government Code section 12586(e)?

"Gross revenue" under that section is the same as "total revenue," which currently appears on Line 12 of IRS Form 990 for public charities and Line 12, column (a) for private foundations. Follow instructions for IRS Form 990 and 990PF, Part I, Line 12.

3. Are non-cash contributions included in "gross revenue" for the purpose of determining whether a charity must prepare audited financial statements under Government Code section 12586(e)?

Yes. Follow instructions for IRS Form 990, Part I, Line 1.

4. For purposes of determining gross revenue, how will income derived from special events be treated?

Income from special events will be treated as reported on IRS Form 990. Follow instructions for IRS Form 990, Part I, Lines 9a through 9c.

5. For purposes of determining gross revenue, how will one-time donations be treated?

The statute does not provide for an exemption for such donations. Follow instructions for IRS Form 990, Part I, Line 1.

6. Must a charity that has audited financial statements for any fiscal year ending before January 1, 2005, make those statements available for public inspection or provide copies to the public or to the Attorney General?

No; the statute is not retroactive, although the Attorney General has the power, under investigative powers conferred by other statutory provisions, to require production of such financial statements.

7. What documents related to audited financial statements must be released to the public?

The audited financial statement and notes to the statement must be released to the public. The management letter is not part of the audited financial statement and is not required to be released to the public.

8. Does the extension for filing IRS Form 990 also apply to the completion date for the audit?

No. The statute does not provide for an extension of time.

9. Who may serve on the audit committee?

The audit committee may include persons who are not members of the board, but may not include any members of the staff of the corporation, including the president or CEO or the treasurer or CFO. (Government Code 12586(e)(2).)

10. What is the permissible minimum size of the audit committee?

The committee may consist of a single member.

11. May the board rely on the audit committee?

Corporations Code section 5212 provides that the board may appoint one or more committees that, to the extent provided by resolution of the board or in the bylaws (and with certain reservations), shall have all the authority of the board.

Government Code section 12586(e)(2) states that, subject to supervision by the board, the audit committee shall recommend to the board the retention and termination of the independent auditor and may negotiate the auditor's compensation. With respect to those functions, the audit committee does not have all the authority of the board because section 12586(e)(2) expressly makes the powers of the audit committee "subject to the supervision of the board of directors." Section 12586(e)(2) controls over section 5212 because it is more specific. For all other responsibilities outlined in subsection (e)(2), the audit committee does function as a section 5212 committee if all of the committee members are members of the board. If, however, the audit committee includes a non-board member, all of the committee's actions are subject to the supervision of the board.

Regardless of how the audit committee is constituted and regardless of what functions it performs, a director must perform the duties of a director in compliance with the provisions of Corporations Code section 5231.

12. When must a charitable organization conduct an initial review of the compensation of its president or CEO and its treasurer or CFO? May it wait to do so until one of the events set forth in the new law occurs?

The organization may wait until the occurrence of one of the events set forth in the statute to conduct its initial review of compensation. Those events are the hiring of the officer, the renewal or extension of the term of the officer's employment, and the modification of the officer's compensation.

This compensation review requirement does not supersede the existing fiduciary duties of officers, directors, and trustees in managing charitable organizations. They have a continuing duty to pay compensation to officers and directors that does not exceed what is fair and reasonable to the organization, and may incur personal liability for paying excessive compensation. Therefore the payment of excessive compensation at any time is a violation of the law. (Government Code section 12586(g); Corporations Code section 5235.)

13. If a charity has staff members who are paid more than the president or CEO or the treasurer or CFO, does the compensation-review provision of the Act apply to them?

No. As stated above, however, the members of the board of directors have a continuing duty to pay compensation that does not exceed what is fair and reasonable to the charity. Moreover, if a staff member actually performs the duties and functions of a president or CEO or a treasurer or CFO, a charity may not avoid the compensation review required by the Act by giving that person a different job title. (See [California Code of Regulations, title 11, section 312.1.](#))

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USD's Eighth Annual Nonprofit Governance Symposium
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Keeping You Legal: New Federal and State Laws Affecting Nonprofits

We live in a changing legal environment. Not only have federal reporting laws changed, California has also put new requirements on nonprofit boards. Learn about all of the changes that impact your organization and how you can address them.

Patricia Jo Mayer, CPA, Senior Tax Manager, Moss Adams LLP
Jonathan A. Grissom, Partner, Higgs, Fletcher & Mack

Federal Law and Reporting for Tax Exempt Organizations:

1. Federal Form 990 - Governance highlights
2. IRS Fiscal Year Work-plan 2011
3. Payroll Reporting - Independent Contractor Voluntary Worker Classification Settlement Program (IR 2011-985-; 9/21/11)

California Law and Reporting for Tax Exempt Organizations:

1. Nonprofit Integrity Act of 2004 / FAQ
2. Uniform Prudent Management of Institutional Funds Act (UPMIFA)
3. Corporations Code Revisions (Ex Officio officers, voting)
4. Other interesting CA law issues for Nonprofit organizations.