

From: jay.thal
To: [*TE/GE-EO-F990-Revision;](#)
CC:
Subject: Making Non-Profits More Transparent
Date: Thursday, September 13, 2007 10:05:19 PM
Attachments:

I would like regulations and a Form-990 which would identify when a non-profit charged fees to "program" recipients and then commingles those fees into its general income.

Such actions allow the non-profit to claim expenditures on those recipients (with the commingled funds) making it APPEAR that a significant percentage is delivered to the recipients and making fundraising and administrative expenditures appear smaller. It's a shell game.

If a good organization, like the Salvation Army, charged the needy for soup and sandwiches it would be called a Restaurant -- not a non-profit. Particularly non-profits operating in interstate commerce

I suspect many other Non-Profits act in the same fashion. But, my specific concern/example(s) is (are) with the Boy Scouts of America and its 300+ BSA Councils. (I am a 1954 Eagle Scout and continue as a Troop leader.)

Either the Scout, his family, or the Scout's Troop/Unit pays a fee for going to summer camps run by BSA Councils. If that fee is not paid the Scout does not go to summer camp.

Those BSA Councils commingle those fees into their general revenues and thus claim that a high percentage (often 30-40%) are expended upon youth. If those fees were isolated and not commingled the Form-990s would mostly show a near 0% of Council income were devoted to the youth BSA claims to serve.

Yes, I understand that it costs to provide a camping experience. But, the camp(s)' operating budget should be isolated. Yes, where camp operating expenses exceed fees, subsidies for operational

shortfalls from the Councils' general income are legitimately to be claimed.

Scouting actually occurs "on the ground" within units/Troops, run by volunteers, that are totally supported by independent entities. Little if any money trickles down from any of the 300+ Councils to aid any unit/Troop.

Further, having personally reviewed the Form 990s of many Councils there is no consistency in reportage. Sometimes you see travel costs, sometimes not. Sometimes you see expense accounts, sometimes not. Etc. Certainly, similar organizations, such as all BSA Councils should be reporting similarly. They do not. That is a failure of 300+ accountants, or poorly written instructions.

Your new forms and instructions do not appear to address problems such as I describe above, whether if be BSA or some other of the half a million reporting non-profits. Your "Background Paper" speaks to lifting burdens from those required to report, but it doesn't seem to help stakeholders in assessing whether their contributions have been effectively spent.

Jay Thal
3611 Jocelyn St.
Washington, DC 20015

From: [David Putman](#)
To: [*TE/GE-EO-F990-Revision;](#)
CC: [Patricia.Pan;](#)
Subject: Opposition to Form 990 Proposed Revision
Date: Thursday, September 13, 2007 8:49:14 PM
Attachments: [Form990Revision.doc](#)

Gentlemen:

Please see the attached file for details of my opposition to the proposed Form 990 Revision.

May common sense prevail,

David Putman

[Can you find the hidden words? Take a break and play Seekadoo!](#)

September 13, 2007

To: Form990Revision

Fr: daveputman

cc: Patricia.Pan

Opposition to Form 990 Proposed Revision

My Congressman's office supplied me with the following rationale for Form 990 revision.

“The last complete revision of Form 990 was in 1979. Tax law related to exempt organizations and tax exempt sector demographics have changed dramatically in the last 28 years. Changes in the Form must be made to reflect new law, current demographics, anticipated future demographics, and the need to ensure transparency in the tax exempt sector.”

I believe the proposed revision of Form 990 is unnecessary, ineffectual and burdensome.

The only significance I can attach to the fact that the last complete revision of Form 990 was in 1979 is that it has served its purpose well for many years and needs no change. It appears to me that it would be more appropriate to repeal changes in the law than to unnecessarily revise a form that is not broken. There were certainly abundant demographic changes throughout those 28 years that did not heretofore necessitate a complete revision of Form 990. Form 990 is no model of transparency, nor is the labyrinthine Tax Code. There are better means of ensuring transparency than those proposed in the Form 990 revision. Revising Form 990 in the name of transparency is simply yielding to overzealous Senate interests promoting intrusive tax policies.

The resources of charities and other not-for-profit organizations are better directed to fulfilling their program missions than they are to compliance with ineffectual and unnecessary IRS form changes. Those missions often revolve around saving lives and reducing suffering. We the people, including those in the Federal government, should be about the business of assisting them in fulfilling those missions, instead of adding to their regulatory burdens.

I also request that the IRS end its practice of publicly releasing those portions of Form 990 returns that are confidential and not intended for public disclosure. Releasing information that is provided under the assurance of or good faith presumption of confidentiality is not the kind of transparency I expect from my government, nor does it reflect the level of ethical behavior I expect. If more ethical behavior is assumed to flow from greater transparency, perhaps some more vigorous window washing at the IRS and on Capitol Hill is in order. From my vantage point, the windows at most charities and not-for profit organizations already look pretty clean.

From: [sloop789](#)
To: [*TE/GE-EO-F990-Revision;](#)
CC:
Subject: Comments - Proposed 990 Revision
Date: Thursday, September 13, 2007 7:43:44 PM
Attachments:

September 10, 2007

Emailed to: For

Form 990 Redesign
ATTN: SE:T:EO
1111 Constitution Ave., N.W.
Washington, DC 20224

Dear Sir or Madam:

I am pleased to submit comments on the proposed revision of IRS Form 990. I have worked for and with non-profit organizations for the last decade. In general, the IRS should continue to seek to ensure transparency, accountability, and integrity in public charities. The IRS Form 990 is integral to achieving these goals, and the IRS should ensure that any changes further these goals.

For brevity's sake, I will address one concern in particular:

The threshold limit for reporting names of the five highest-compensated employees and amount of compensation should remain at \$50,000 and not be raised to \$100,000.

Section A of Part II of the new 990 core form asks for, inter alia, the names of the five highest-compensated employees over \$100,000 annually and amount of compensation. The \$100,000 threshold is double the current threshold of \$50,000. This change does nothing to enhance transparency in the nonprofit sector. To the contrary, it drops a veil of secrecy on executive compensation in small to mid-size nonprofits, where most reasonable salaries are under \$100,000. This move prevents donors, grant

fundors, the press, and watchdog agencies from determining whether a nonprofit is paying excessive compensation. It also prevents nonprofits from undertaking objective comparative analyses when assessing whether their own salary structures are reasonable.

In short, raising the threshold to \$100,000 will eliminate a whole trove of data that the public, watchdog agencies, and nonprofits themselves use to ensure transparency and accountability. . The IRS should consider maintaining the threshold at \$50,000, or as a compromise, raising it to \$75,000.

Sincerely yours,

Kumar Vaswani
Attorney at Law
P.O. Box 30182
Bethesda, Maryland 20824-0182

Take the Internet to Go: Yahoo!Go puts the Internet in your pocket: mail, news, photos & more.
<http://mobile.yahoo.com/go?refer=1GNXIC>

From: dave.hayman
To: [*TE/GE-EO-F990-Revision;](#)
CC:
Subject: Comments of Thrivent Financial for Lutherans on Draft Redesigned Form 990
Date: Thursday, September 13, 2007 6:58:35 PM
Attachments: [TFLComments990Redesign9-13-07.doc](#)
[ATT2463757.jpg](#)

Attached is a Word document with comments from Thrivent Financial for Lutherans in response to your request for public comment in IR-2007-117 (June 14, 2007) on the Redesigned Form 990 Discussion Draft.

Thank you.

David Hayman
Senior Counsel

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September 13, 2007

Internal Revenue Service
Form 990 Redesign, SE:T:EO
1111 Constitution Avenue, NW
Washington, DC 20224
(Form990Revision@irs.gov)

RE: Comments on Form 990 Discussion Draft - IR-2007-117 June 14, 2007

This is in response to the request for comments by the Internal Revenue Service on the discussion draft of the redesigned Form 990 which was released on June 14, 2007. We have (1) general comments on the Form 990 revision initiative and (2) responses to the following specific requests for comments and suggestions in the "Background Paper, Redesigned Draft Form 990":

- Whether the IRS should preclude group returns
- Raising the Form 990 filing thresholds for certain organizations
- Whether certain portions of the discussion draft Form 990 can be used as a substitute for the current form 990 E-Z

We have significant concern with the preclusion of group returns.

I. Background

Thrivent Financial for Lutherans ("Society") is a fraternal beneficiary society that is exempt from federal income tax under Section 501(c)(8) of the Internal Revenue Code. Society currently has 1,362 local lodges, all operating in the United States. These lodges, called "chapters," are chartered by and are subordinate units of the Society. As is typical of fraternal beneficiary society lodges, chapters are unincorporated associations. Society chapters share the same uniform constitution which determines their purposes and governance structure. Each chapter has a group of elected officers called a "leadership board" who are responsible for chapter operations, including financial reporting.

The primary focus of Society chapters is conducting volunteer charitable activity. In 2006, Society chapter volunteers reported approximately 20 million volunteer hours for planning, organizing, and conducting charitable fund-raising and hands-on-service activities. Society provides funds to chapters to supplement funds raised by chapter volunteers for charitable, educational, or religious purposes and also provides funds to purchase materials for charitable work projects.

Chapters receive their administrative operating funds from the Society and not from public donations. All of the chapters of society are staffed by unpaid volunteers, including the elected officers. Chapters do not own office equipment or have business offices. Chapter meetings are often held in Lutheran churches or in other public locations.

The chapter structure of Society is designed to encourage chapter activity and volunteer activity, which includes minimizing administrative burden on chapter leaders so that people continue to volunteer for these positions and maximize the time volunteers have for charitable service. A critical part of this strategy has been the preparation of a group Form 990 by the Society to remove the burden of information return preparation and filing from its chapter volunteers. Society will file a group Form 990 for all of its 1,362 local chapters for 2006. For 2006, over 1,200 of these chapters had annual gross receipts of \$25,000 or more.

II. General Comment on Form 990 Revision Initiative

Society agrees with the need to redesign the Form 990 to address the significant changes that have occurred in the tax exempt community since 1979 when Form 990 was last redesigned. Society also commends the IRS for the basic design of the draft Form 990, including the one-page summary snapshot and potential elimination of the need for various organizations to have to file numerous supporting schedules. Society also agrees with the guiding principles of the redesign effort stated in the "Background Paper for Redesigned Draft Form 990": enhancing transparency, promoting compliance, and minimizing the burden on filing organizations.

III. Comment on Whether the IRS Should Preclude Group Returns

Preclusion of group Form 990 returns for Society chapters would not further the three guiding principles of the redesign of Form 990 as stated in the "Background Paper."

Enhancing Transparency

As stated in the "Background Paper," the enhancing transparency principle means "providing the IRS and its stakeholders with a realistic picture of the organization and its operations, along with the basis for comparing the organization to similar organizations."

While transparency is desirable, the existing group filing requirements work well and are not in need of a change, especially for fraternal beneficiary societies that are tax-exempt pursuant to Section 501(c)(8). Pursuant to Section 501(c)(8) and Reg. § 1.501(c)(8)-1, fraternal beneficiary societies are required to operate under the lodge system as a condition of tax exemption. "Operating under the lodge system" means "carrying on its activities under a form of organization that comprises local branches, *chartered by a parent organization* and largely self-governing, called lodges, chapters, or the like." (*emphasis added*) The charter ("Constitution for Chapters") used by all 1,362 of Society chapters is the same.

Because operating with a structure of local units is required as a condition of exemption under Section 501(c)(8), the local units are essentially an extension of the parent organization. As such, the sum of the parts is equal to the whole - the IRS is highly unlikely to gain any additional useful information of substance by receiving hundreds of Form 990s that separately reflect a portion of the data that is already

reported on the group Form 990 filed by our organization. Moreover, the IRS has the authority to require Society to provide individual chapter information that is included in a group Form 990 filing in the event of an audit of any individual chapter or group of chapters. In order for the IRS and its stakeholders to compare the operations and efficiency of Society with other organizations, a compilation of information from hundreds of individual chapter Form 990 and Form 990-EZ information returns would be useful. With the preparation of the current group Form 990, this has already been done.

Promoting Tax Compliance

As stated in the "Background Paper," promoting tax compliance means that "the form must accurately reflect the organization's operations and use of assets, so the IRS may efficiently assess the risk of noncompliance."

The promotion of tax compliance is, of course, a critical objective of the redesign. However, since Society chapters operate under the same constitution and carry out programs under uniform guidelines, eliminating group 990 returns would not enhance promotion of tax compliance regarding Society chapters. The group Form 990 contains the information necessary for the IRS to determine whether or not Society is "operating under the lodge system" and engaged in fraternal activities.

Another concern of Society regarding elimination of group Form 990 procedure is maintaining the quality of the Form 990 filings that would be prepared by chapter volunteers who are not familiar with Form 990 information return preparation. Society is currently able to take responsibility for tax reporting for its chapters using the group Form 990 filing process. This is efficient for both Society and the IRS. Leadership changes occur frequently in Society chapters, making it difficult to maintain experience levels in Form 990 filing procedure. Elimination of group Form 990 returns would clearly not promote compliance with respect to Society chapters.

Minimizing the Burden on Filing Organizations

As stated in the "Background Paper," minimizing the burden on filing organizations means "asking questions in a manner that makes it relatively easy to fill out the form, and that do not impose unwarranted additional recordkeeping or information gathering burdens to obtain and substantiate the reported information."

Preclusion of group Form 990 returns for Society chapters would be clearly contrary to the principle of minimizing filing burden as applied to Society. All 1,362 of Society chapters are staffed by unpaid volunteers, including those filling the roles of officers. Chapters have no places of business or office equipment. Asking our volunteers to prepare separate Form 990 information returns would substantially increase the officers' administrative time and correspondingly

substantially decrease the number of hours the volunteers would have available to conduct charitable endeavors. We also have concerns about whether or not sufficient numbers of persons would continue to volunteer for the role of financial director, who would become responsible for filing of Form 990 or Form 990-EZ if group returns were precluded.

Alternatively, we estimate that if our volunteers engaged an outside tax accounting firm to prepare the returns the cost would be approximately \$1,000 to \$2,000 per return on average, for an estimated minimum annual total of approximately \$1.2 million for chapters subject to the Form 990 or Form 990-EZ filing requirement. These funds could otherwise be directed to charitable, religious support, and other Society activities if the existing Form 990 group return filing process was maintained.

Another alternative is to have the parent organization prepare all 1,362 separate information returns for signature by the volunteer officers. Based on current chapter annual gross receipts and filing thresholds, this would mean preparing approximately 500 Form 990s and over 700 Form 990-EZ information returns. In the instructions to the 2006 Form 990, the IRS estimated that it currently takes 22 hours and 20 minutes to prepare the existing Form 990 and another 1 hour and 4 minutes to copy, assemble and send the form to the IRS. For Form 990-EZ, the instructions state that it currently takes 14 hours and 24 minutes to prepare the return and another 32 minutes to copy, assemble, and send the form to the IRS. (These totals do not include the time estimates for "recordkeeping" or "learning about the law or the form".) Optimistically, even if there was a 75% reduction in preparation time as a result of the re-design of the Form 990 and or Form 990-EZ, the elimination of group filing would still result in at least 4-6 hours per return of on-going annual preparation and assembly time. For our organization, this would result in a need to hire at least 6 full-time equivalent employees just to prepare the annual Form 990 and Form 990-EZ information returns for Society chapters. Chapter leaders would still be required to review, sign, and file these returns, creating additional unnecessary administration.

For the reasons outlined above, Society strongly encourages the IRS to retain the existing group Form 990 return filing option. Elimination of group Form 990 filing would not advance the three guiding principles on which the Form 990 redesign project is based and would in fact contradict these principles in several respects as applied to Society, particularly with regard to filing burden.

IV. Comment on Raising the Form 990 Filing Thresholds for Certain Organizations

Raising the Form 990 filing threshold would further the guiding principle of minimizing the burden on filing organizations, without materially reducing transparency or adversely affecting tax compliance, since the additional organizations filing Form 990-N would still be relatively small. The \$25,000 filing threshold has been in effect since 1983 and should be reconsidered due to inflation that has occurred. However, for Society, raising the filing threshold would clearly not be a substitute

Internal Revenue Service, page 5

for maintaining the group Form 990 return process. If the group Form 990 process was eliminated, an increase in the filing threshold to \$50,000 in annual gross receipts would still subject Society to filing separate Form 990s or Form 990-EZ information returns for over 900 chapters.

V. Comment on Whether Certain Portions of the Discussion Draft Form 990 Can Be Used as a Substitute for the Current Form 990-EZ.

The current Form 990-EZ is effective and sufficient for smaller- sized tax exempt organizations. Organizations in the \$50,000 to \$99,999 annual gross receipts range should have a reduced filing burden to conserve their more limited resources. Our specific suggestion is to retain the current Form 990-EZ but add a one-page summary page similar to the information shown in Part I of the draft redesigned Form 990 so that this group of organizations can quickly be compared to other exempt organizations. A second suggestion is to increase the Form 990-EZ filing threshold to organizations with less than \$150,000 of gross receipts.

We greatly appreciate the opportunity to comment on the issues addressed in this letter. We would welcome further discussion of these issues. Please contact us if you would like to discuss our comments further.

Sincerely,

Bruce J. Nicholson
President and CEO
Thrivent Financial for Lutherans

From: [Eve Borenstein \(BAM Law\)](#)
To: [*TE/GE-EO-F990-Revision;](#)
CC:
Subject: Second (and Final) Borenstein personal
comments
Date: Thursday, September 13, 2007 6:19:59 PM
Attachments: [Borenstein Comments 09132007.doc](#)

Eve Borenstein
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VIA E-MAIL TRANSMISSION

September 13, 2007

Lois G. Lerner
Director of the Exempt Organizations Division of the IRS

Ronald J. Schultz
Senior Technical Advisory to the Commissioner of TE/GE

Theresa Pattara
Project Manager, Form 990 Redesign, SE:T:EO

Dear Ms. Lerner, Mr. Schultz, and Ms. Pattara:

As promised in my prior formal comment letter (dated September 7, 2007), I now write a second time in order to convey comments on major elements of the Form 990 Redesign beyond that of the 'Summary' Part I at Page 1 of the draft Redesign's Core Form. I realize that my prior letter stated it would include suggestions for improving Part II of the Core Form with respect to retaining specific aspects of remuneration that the Redesign would otherwise have solely situated in Schedule J. Those suggestions failed to make that letter, and are now conveyed in the first two numbered sections of this transmittal. Following those sections, I make a plethora of suggestions that generally fall into five arenas:

- a) improving behavior-modification ramifications flowing from Parts II and III;
- b) need to define "related organization" more practical and effectively;
- c) reporting of fundraising and gaming inquiries;
- d) improvements or clarifications on revenue and expense reporting (including Schedule B's detail on contributors); and
- e) flow of Parts and Schedules.

The one bias I bring to these comments overall is a perspective on how changes in a Redesigned 990 will be received by, and effectuated in the hands of both small organizations (\$1 million - \$2 million budget) and extremely small organizations (less than \$1 million budget). I note that these two segments of filer not only represent the vast majority of Form 990 filers, but it is growth from their sector that yields movement into the future pool of medium organizations (\$2 million - \$10 million budget). The struggles that extremely small, small, and the bottom end of medium (sized) organizations have with accurate and complete Form 990 preparation inform the utility of the data (both its consistency and meaning, which are key to transparency) as well as the ability of the Form to effect compliance and accountability. If the Form aspires to too much complexity or focuses unduly on out-liers, it risks not being practical in reach to the mainstream.

And finally, you will note that here, as in my prior comment letter, I have placed **in bold** the alternatives I suggest.

1. "Grid" for Reporting Identity of and Compensation Provided to "Insiders" via Part II-A of the Core Form

Regardless of size, the exempt sector is long used to disclosing the names of current fiduciaries (a pool that includes "Trustees/Directors, Officers, and Key Employees" (hereafter, "TDOKE's") who served them during the filing year. The exempt sector attempts to properly disclose for these individuals the monetized remuneration provided these individuals [this task is accomplished upon the current 990 at Part V (as of the 2005 Form, Part V-A).] 501(c)(3) organizations (other than private foundations) are similarly long used to disclosing this information (names and remuneration) for their top five so-called "highly compensated" employees (hereafter, "High 5's") [this upon the current 990 at Schedule A, Part I.] The format that the exempt sector overall (with respect to TDOKE's) and that charities additionally (with respect to High 5 employees) applies in disclosing remuneration provided to these individuals is identical; however, the multitude of definitions the current Form 990 utilizes for reporting of remuneration *other than* wages paid or incurred during the course of¹ the filing year – which occurs via columns (D) and (E) – have been a source of great confusion for the sector² with attendant inconsistent reporting the result.

The redesign of the Form 990 would accommodate the twin goals of transparency and simplified reporting by having both of these pools (TDOKE's and High 5's) reported together in one Part of the 'Core Form' [the draft's Part II], and each individual there listed would detail remunerative benefits provided by the filer (as well as all related organizations) measured by dollars reportable on W-2 at Box 5. The 'new' reporting convention's imposed at the draft Redesign's Part II are problematic in two key ways:

1. The exempt sector will be required to provide MORE information than it has in the past as *non-501(c)(3)* organizations will now be reporting information on High 5 individuals (a category that at present is not required to be disclosed) and by having both 501(c)(3)'s and non-501(c)(3)'s report amounts that TDOKE's and High 5's are provided by related organizations (information that as of the 2005 and 2006 Forms is asked for, but only in certain cases, and with criteria that have been almost unintelligible to most preparers); and

2. The information provided on listed individuals, with respect to amounts (and types) of remuneration they receive, will be much less relevant (and accordingly, less illuminative) than

¹ It is an alternative for fiscal year filers that they may chose to report wages paid through the close of the calendar year that ends within the fiscal filing year. This convention is availed of, albeit quite rarely, by the largest organizations. It is they who may have a Big 4 (or similar) CPA firms' assistance from which a tax person may not only be aware of, but champion, the anomalous Code Section 6033 regulation that allows such reporting.

² Extremely small exempt organizations, ironically enough, have been the least frustrated with the multiple definitions employed in the existing Form's Part V/V-A and Schedule A Part I. This is the case as they typically do not provide employees with benefits other than health insurance; additionally, their employees are usually not paid enough to be overly desirous of opportunities to reduce their taxable income through the contribution of wages to employer-sponsored retirement or health/dependent care plans and thus such plans are rather plan in this segment. With extremely small exempt organizations, columns (D) and (E) basically correlate to "how much did the filer contribute to health insurance for the employee". Small and medium size (\$2 million - \$10 million budget) organizations struggle with what *other* items they need monetize and account for in these columns.

the current Form 990's detailing of compensatory benefits provided to TDOKE's and High 5 employees.

There is a key change that the draft Redesign's Part II would effect that is admirable: setting a higher threshold for defining the so-called "highly compensated" employees (the draft Redesign has such High 5 status triggered for Part II inclusion when individuals have total reportable remuneration of \$100,000 or greater). However, expanding upon the concerns introduced in the prior paragraph, there are several undesirable consequences of having this Part solely disclose "reportable compensation" keyed to W-2 Box 5 dollars paid by the filer and all related organizations. First and foremost, the present 990's relevant Parts report in columns (C) and (D) wages/bonus/salary paid or incurred [in column (C)] *and* contributions to benefit plans paid or incurred [in column (D)], as well as voluntary deferrals by the reported individual of currently earned wages and all amounts provided by the employer to deferred compensation plans [also in column (D)]³.] It is a certainty that many individuals whose High 5 status with 501(c)(3) organizations now discloses \$100,000 in total between columns (C) and (D) *would not have that same \$100,000 total achieved were it solely W-2/Box 5 measured dollars paid by the filer the standard by which calculation of High 5 status would be tested*. Not only would W-2 reportable wages at \$100,000 or greater be present for an infinitesimally smaller pool of individuals working for exempt filers than the present methodology yields, but the utility of Form 990 data to see what compensation is effectively being paid *in total* will vanish. W-2 medicare-taxable-reported compensation is an insufficient measure of total remuneration and one that viewers of the sector will certainly not find useful. Without a measure of the dollars the filer has provided to an employee's benefit (as non-tax-reportable contributions to) health insurance and pension plans, as well as in ignoring dollars the individual employee has elected to remove from income taxation through elective deferred compensation or by their own contribution to a pension plan (or perhaps to health/dependent care plan – see footnote 3 below), the Form 990 compensation number on an individual will only be a false talisman. Such a 'sea change' from the present Form's methodology would be desirable were there clear indications that filers and users of the Form desired the specific new measure that would be employed; the writer is not aware of any discussion that has suggested this prior to the draft Redesign's 06142007 release.

Accordingly, I urge the IRS to have filers account for (i.e., include) in the relevant Part of the Core Form (now II-A) of the Redesigned 990 all dollars they have provided as either wages or in making payments for non-employee services, including contribution payments to an individual's welfare benefit plans, for all those populating the filer's reporting year TDOKE and High 5 pools.

And finally, apart from disclosures relating to compensation, there has been 'controversy' over the fact that Column (A) is asking for City and State of Residence. I also have concerns as to the choice at Column (C) to ask for a check mark to signify when the reported individual is a "full time officer or employee". My comments on each of these inputs is as follows:

³ It is not clear to the writer whether individuals' tax-advantaged contributions of wages to their pension plans or flex plans for health and dependent care are or are not recorded in Box 5 of the W-2. Confusion in the sector as to whether such 'deferrals' are or are not reported in that Box (assuming same exists) will result in inconsistent data as well.

1. City/State listing is no more intrusive from a privacy perspective than a complete business (or home) address would be; Congress need decide if it will assist the IRS in protecting individuals' privacy [in which case protecting from disclosure the signature of the officer (and paid preparer, if any) signing the return would be a high priority] by amending present law to allow this information to be redacted from public inspection copies. My point is that commentators taking the IRS to task for this improvement should take the issue up with Congress.

2. It is likely a mistake to have Column (C) solely use a checkmark as there will be great disparities between filing organizations as to what constitutes a "full-time employee".

2. Schedule J's Expanded Reporting of Compensation "Insiders" Receive

Expanded reporting of compensation occurs at Schedule J only when one of three specific triggers have been reached (and then hitting a trigger is solely of consequence for the individual on Part II-A tripping same). Once a trigger is reached, the chief impact of the expanded reporting on Schedule J is a scheduling of the individual's remuneration beyond that of "reportable compensation", and the listing of total amounts of expense reimbursements they were provided to the individual.

The first trigger reaches those individuals in the Core Form's Part II-A who would have "reportable compensation" (between the filer and so-called 'related organizations') in excess of \$150,000. As set out in the preceding section, the Core Form for all TDOKE's and High 5 individuals should go beyond "reportable compensation" and also include contributions to welfare benefit plans and total gross wages (not only those taxable for Medicare purposes). Even with that adjustment, a \$150,000 threshold may very well prove to be *too high* a number. **\$125,000 (indexed for inflation starting now) would be a more effective trigger for the in-depth questions (including behavior modification queries) that are the intended purview of Schedule J.** It is unlikely that all but the tiniest percentage of medium size and larger 501(c)(3) charities will be accessing current year's TDOKE's and High 5's with wages and contributions to employee benefit plans paid internally and with all related organizations to one of those individuals above \$150,000! In the non-501(c)(3) exempt world, the relative percentage who have such access may arguably prove to be higher than in the world of charities, but even so, to what end is having only a very few individuals tabbed for greater disclosure?

A second trigger is having a former Officer or Key Employee (i.e., ex- OKE's out of all ex-TDOKE's) *or* former High 5 individual having gotten \$100,000 in total "reportable compensation" (as opposed to the \$150,000 threshold in the first trigger), a condition which mandates their inclusion in Part II-A to begin with; *OR* having a former Trustee/Director (i.e., ex- TD's out of all ex-TDOKE's) having gotten \$10,000 in total "reportable compensation" with respect to their having served in such position in the past (again, a condition which would mandate their inclusion in Part II-A to begin with). Here there is no reason to mince words – this is TOO COMPLICATED. Achieving the proper application of conditions that apply disparately to sub-pools of former TDOKE's will take a huge learning curve. If more information is desired on compensatory arrangements with former TDOKE's, an 'easier' threshold Part II-A inclusion need be designed. A 'harder' (to understand) threshold for Schedule J could then apply. **One**

suggestion is asking on Part II-B whether the organization has continued to pay for prior year's services, or hired as an employee or contracted for services an individual who prior to this filing year had served as a TDOKE but in this filing year no longer held their old (or any other TDOKE) position. A 'yes' answer would trigger inclusion of the individual on the last lines of Part II-A. Such individuals would then be subject to the overall dollar thresholds that now comprise the first and third triggers yielding expanded disclosure on Schedule J.

The third trigger is adding into Core Form disclosed compensation (which I have already sought to expand beyond 'reportable compensation' to also include both employer and employee contributions to benefit plans, a point I shall not belabor anymore) other "deferred contribution" amounts, the monetized value of nontaxable fringe benefits, and all reimbursed expenses, with the total dollar result (paid or accrued) topping \$250,000. This trigger would result in a "changing horses in the middle of the stream" conundrum. Nontaxable fringe benefits right now are ostensibly reportable for TDOKE's (as well as for charities' High 5 employees) in the Part V/V-A and Schedule A Part I format at column (E). Their inclusion there is a huge source of confusion, which the Redesign 990 will need end if we are to have consistent reporting that allows true comparative results. Having nontaxable fringe benefits – beyond *de minimis* and no-additional-cost fringe benefits⁴ – monetized on Schedule J with respect to certain individuals may well be desirable from a behavior modification and accountability perspective. **However, requiring all organizations to monetize such benefits routinely in figuring whether another trigger to Schedule J has been reached is unduly burdensome and will only 'catch' a couple of out-liers. Instead, Schedule J can and should ask for the monetized amount of specified nontaxable fringe benefits (a huge PRACTICAL list should be provided in the Sch. J instructions, conveying "including, but not limited to" examples such as maid service/cleaning related to holding receptions in one's house, tuition remission, moving expenses, etc.)** There is no point in only inquiring about such largesse to TDOKE's and Key Employees when Part II amounts, plus these, get to one-quarter of a million dollars; instead, for all otherwise-triggered individuals, such disclosure should be provided.

Each of the two other inputs to this trigger – other deferred compensation (missed from inclusion in Part II where I have suggested such amounts be retained for reporting as they are now on the current Form 990) and expense reimbursements, should also be removed from triggering status.

⁴ Ralph DeJong has waxed eloquently on the topic of why the Form 990 should NOT require the inclusion of every type of nontaxable fringe benefit. He has noted that this requirement would represent an enormous tracking and reporting burden for reporting organizations, especially as several of these types of fringe benefits are not subject to tax under Code Section 132 "precisely because the burden of tracking and reporting them is administratively burdensome, or because they are not readily capable of measurement (*e.g.*, *de minimis* fringe benefits and no-additional-cost fringes)" [Comments provided to the American Bar Association Section of Taxation preparatory to the Section's submission in response to IR 2007-117, working papers in possession of this writer]. His patient explanation goes onto state that "others of these fringe benefits, such as working condition fringe benefits, could be interpreted to include a wide array of employer-provided "benefits" that are a necessary part of the job, but that would not be considered a benefit by the general public (*i.e.*, business travel reimbursement, office supplies, office furniture, computer equipment, and the like)." [*Id.*]

With respect to expense reimbursements, from a compliance perspective the question for all TDOKE's (and perhaps High 5's) is whether exempt organizations are properly receiving documentation of ordinary and necessary expenditures of the filer organization that have been advanced (paid for) by the individual? Once the exempt sector understands that a payment I make from my personal Discover Card and then seek *reimbursement of* from the organization's coffers will be totaled and the amount potentially detailed on a Form 990 filing, two things will happen: 1) exempt organizations will initiate the use of more company credit cards (to avoid having to issue reimbursement checks for charges incurred on personal credit cards), a cosmetic result in the wrong direction (since same will only increase the realms where weak documentation procedures have to be overcome by administrative staff); and 2) internal purchases and their administrative costs will increase for organizations of all sizes. It may be more cost effective for the Executive Director (who is perhaps also the President of an exempt organization, as well as a Key Employee) to buy his own plane tickets on trips that are a recurring business item of the organization. His or her assistant may book tickets not aware of the flyer's willingness to extend a trip over a Saturday overnight (staying with friends for that extra night) or flying with a stopover in a specific city in order to save costs. The monetization of all plane tickets run on the Executive Director's personal credit card tells us nothing about the veracity of the business nature of those trips, and the fact that a lower number will raise less suspicions than a higher number will push both filers overall and affected individuals singly to avoid 'reimbursements'. Until there is talk (none of which I have heard) within the sector or its watchdogs to move to NOT having individuals personally reimbursed for charges they might incur for the organization, there is no meaningful rationale (beyond catching one or two out-liers, who are unlikely to want to confess to their behavior in the first place) for the IRS to require a statement of their monetization. **My suggestion, accordingly, is that the measure of "reimbursements" for documented expenses be neither reflected in calculating triggers to mandate completion of Schedule J, nor included as a disclosure item on that Schedule.**

3. Part II-B's Questions 3-5

These three questions reflect rather disharmonious intentions and keeping them together would serve cross-purposes. Question 3 is there to induce behavior-modification, and multiple commentators have stressed that it need be improved to state with precision its modeling of the 'rebuttable presumption' standard under Code Section 4958 while also stating that such standard is not applicable to (by mandate or otherwise) all organizations (indeed, even those to whom Code Section 4958 applies). **I suggest that Question 3 be broken into two parts, similar to that on the Form 1023 where a similar educational and/or behavior modification inquiry is included, along the lines of "do you follow these procedures [yes/no] If no, briefly explain the process engaged in to ensure that compensation provided does not exceed fair market value."**

Question 4 is designed to flag potential problems and would be easier to understand, and more fairly situated, if it were in Part II-A, **perhaps replacing Part II-A's question 2. Alternatively, a specific column for such amounts should just be included in Part II-A's 1a "Grid".**

Question 5 does a nice job of segregating the multiple components now lumped together in the current Form 990's Part V/Question 75b and 75c. As always, the devil is in the details, so the Instructions here will need to be bolstered, including as an improvement, **the addition of appropriate (a term I use to mean "significant") thresholds as to what comprises a reportable "business relationship" or for when an entity is "doing business with [the filer]"**. Such improvements will ensure that filers in fact can see the circumstances in which they need strengthen their employ of basic conflict of interest procedures.

4. Part III

Question(s) 3a and 3b: Pairing 3b with 3a is problematic and may actually pressure results in the wrong direction -- motivating Boards to less fully pursue the employ of their conflict of interest procedures, since a higher number on 3b may be perceived as an indicator that the Board is constantly trying to do 'deals' with insiders, potentially unfairly or at least in contravention of duties of loyalty to the organization's best interests. While those of us with more understanding of the governance responsibility respected by appropriate invoking of a policy's procedures will see a higher number on 3b as an indication that the policy is working, this is not going to be the common perception. **It would be wise to avoid question 3b's catch-22 disclosure in entirety.**

Question 10: **Boards SHOULD review the Form 990 before it is filed** (this is not a suggestion but an emphatic point necessary to the 'advice' here to retain this question.) Contrary to those who would argue that the question wrongly implies that a "yes" answer is the better answer, a behavior modification push for governors of exempt organizations to familiarize themselves with the content of each filing is desirable. Indeed, various State laws mandate that their registered-as-'charitably soliciting' organizations (a status which includes more than 501(c)(3) charities!) have their Boards *approve the filed 990* prior to submitting same with the State's required report.

Question 11: Beyond Form 990, it is the case (at least for 501(c)(3) organizations) that Form 990-T and audited financial statements are moving into public access: Forms 990-T filed on or after 8/17/07 by 501(c)(3) entities are open for public inspection under federal tax law; and audits of financial statements on 'charitably soliciting' organizations are open to public view in many States via data practice rules⁵). The *other* items this Question asks for all have aspects of "overkill" present. Why SHOULD an exempt organization make its organizing documents (e.g., Bylaws) or Conflict of Interest Policy available for perusal, debate, criticism by any Joan or John Q. Public who is not a voting member? Many small (and extremely small) organizations do not operate with Bylaws but utilize instead the basic defaults provided by state nonprofit corporate

⁵ For example, Minnesota statutes require 'charitably soliciting organizations' to file an Annual Report which is to include audited financial statements (i.e., an independent opinion that the financial statements fairly and fully represent the organization's finances under generally accepted accounting principles) when total revenues are \$350,000 or greater. See Minnesota Statutes Chapter 309. Wisconsin law uses an even lower threshold for requiring an audit be filed with the State for such organizations (\$100,000). These low thresholds make organizations in the Upper Midwest *jealous* of the 2005 law enacted in California, which imposed an audit requirement for the first time – but at a \$2,000,000 threshold!

law⁶ and accordingly answers here would allow a reader to infer that they have chosen to not have such a document publicly available, when the truth would be that none exists.

The query I posit here is asking about the necessity (versus burden) of having this question seek an apparent behavior modification goal. Indeed, *what* compliance, transparency and bearable burden on the organization would be demonstrated or furthered by having disclosures of anything asked about here (beyond the Form 990) encouraged? I submit that these 'asks' will impose unintended resource drains on exempt entities and to avoid same, **this question should only ask about access to Form 990, Form 990-T, and compiled/reviewed or audited financial statements (if any have been prepared); even then, my recommendation would only ask about Form 990-T and Audit Report mechanisms of availability for organizations whose gross receipts were in excess of \$2 million.**

5. Definition of "Related Organization" Utilized at Part II-A for Compensation Disclosures and Triggering Further Schedule R Disclosures

I preface my suggestions here with a note that the current Form 990 utilizes at least four disparate definitions of "related organizations" – 501(c)(3) filers must show all financial transactions with *related* non-501(c)(3) exempt entities at Part VII of the Schedule A; Part III, Q. 2 of the Schedule A asks for information on transactions 501(c)(3) filers may have undertaken with 'taxable organizations' that certain individuals serve as directors, officers, or as principal beneficiary, etc. (i.e., thus be *related* to); Form 990 Q. 75c has voluminous categories of *relationship* defining when another entity's payment of remuneration to one of the filer's TDOKE's or High 5 employees would have to be disclosed; and Part VI, Q. 80a/b asks what entities the filer is *related to*

The draft Redesign simplifies the notion of WHEN an entity holds status and thus would be a *related organization* by employing four signifiers by which a *relationship exists* (this is done in the Glossary, at page 8). Three of those *relationships* (parent, subsidiary, and brother/sister) require a link that is predicated upon "control" being in place; "control" is found (per definition in the Glossary, at page 2) when "more than 50%" of voting power, stock votes, stock value, profits or capital interests (etc.) are maintained by one party over the other. The simplicity here is admirable, but the results fail to encompass links that are commonly understood by filers (and the sector overall) as creating and encompassing *relationships* which should be (as they are already) subject to fuller disclosure requirements. **Accordingly, to preserve existing transparency and accountability afforded upon and by the Form 990⁷ (particularly with respect to compensation disclosures), ease burden on the filing sector who may be called upon to explain whether or not they are 'hiding something' were clearly-related entities to**

⁶ For example, the Model Nonprofit Corporation Statute applies radical baseline notions such as a quorum shall be a majority of then-seated Board members, and actions shall be effected by majority vote. The writer is familiar with many (hundreds?) of Minnesota nonprofit corporations who operate utilizing this State's default provisions (situated in *Minnesota Statutes* Chapter 317A) which tie to the Model statute, and is familiar with many non-Minnesota nonprofits who similarly operate without Bylaws.

⁷ Witness the multiple reporting points in the Form 990 in which the existence of a "related organization" brings about disclosure, noted in the preceding paragraph!

no longer be reported upon, and to retain and promote consistent reporting by filers, the glossary's definition(s) need be expanded to include the following categories of "relationship":

- **Linked / tandem organizations.** These would be defined as those where "more than 50%" control is not in place (and thus 'parent', 'subsidiary', or 'brother/sister' status is not accorded), BUT identity of the organizations is linked via shared names (e.g., entity 1 is League of Rural Voters and entity 2 is League of Rural Voters Education Fund) or significant 'combined programs'. I would include in the latter category those funded by a 501(c)(3) raising money routinely to allow the making of pre-approved "controlled grants" (a term used within the meaning of Sections 501(h) and 4911)) to a 501(c)(4) entity.
- ***De facto* related organizations.** These would be defined as those where control indices failed to be "more than 50%" but the measures were at 35%-50% and there was either: a shared President/CEO/Executive Director, a shared CFO, or three or more individuals in "substantial influence" (within the meaning of Code Section 4958) over both organizations at any point in the period the filer is reporting upon.

6. Statement of Functional Expense(s)

As my September 7, 2007 comments conveyed, the present Form 990 has long provided a "Statement of Functional Expense[s]" to meet the desire of various State regulators to have access to the information their laws set with respect to registered entities in their jurisdictions needing to annual disclose the amounts of expenses paid or incurred within distinct categories: program, management/general, and fundraising. The CPA community is responsible to test/report a similar breakout in reporting by 'voluntary health and welfare' organizations when independent opinions are issued on their financial statements in accord with audit standards applicable to that sub-sector. In spite of the requests for such breakouts by State regulators, and the need for auditors to present such allocations, it is well understood by many observers of the 501(c)(3) and 501(c)(4) strata (including organizations themselves, Form 990 preparers, and readers/reviewers of the "Statement of Functional Expense[s]") that the data presented there does no more than prove the "garbage in/garbage out" principle. Small (and extremely small) organizations, as well as many medium size organizations, readily consult what amounts to a Psychic Network to determine these "allocations". As my previous comment submission critiqued the utility of the data when converted to percentages (assuming it were accurate in the first place), I will not revisit that critique again here [that critique appears in my September 7, 2007 letter's text upon Page 13, starting at that page's first full paragraph, and continuing to the beginning of the next section of comments upon Page 14.] **I do strongly urge the IRS and State regulators to abandon having 501(c)(3) and 501(c)(4) filers report so-called 'functionalized' expenses on the Form 990 (this recommendation is restated in the following paragraph as well.)** While such a result may well leave certain State regulators (and the legislatures they work with) in need of refined reporting mechanisms (or law changes), there is little doubt that the *absence* of Form 990 disclosures of relatively specious information will prove to be a constructive step forward for the sector. Such a step is long overdue, as it has been

almost twenty years since the U.S. Supreme Court found in *Riley v. National Federation of Blind*, 487 U.S. 781 (1988), that States (or other political subdivisions) can not stop an organization from making 'charitable solicitations' of its citizens on the grounds that 'too much' of the organization's expenses went to fundraising and administration (rather than program). Indeed, it really as been MORE than twenty years that such result has been the law of the U.S. as the *Riley* opinion specifically notes that the Court had already ruled similarly on the unconstitutionality of such laws (in *Schaumburg v. Citizens for a Better Environment*, 444 U.S. 620 (1980)):

There [in *Schaumburg*] we invalidated a local ordinance requiring charitable solicitors to use, for charitable purposes (defined to exclude funds used toward administrative expenses and the costs of conducting the solicitation), 75% of the funds solicited.

For the plethora of reasons noted here as well as in my prior-submitted comments, I recommend the deletion of Columns (B), (C), and (D) from the draft Redesign's Part V. Such deletion will leave this Part applying equally to *all* filers (which is of benefit). Such deletion will remove the pain experienced by 501(c)(3) and 501(c)(4) filers of having to record and report data (i.e., "allocating on a 'reasonable basis'") that may or may not be required by State law regulators depending on the filer's activities with respect to solicitation practices in different jurisdictions. That pain, of learning what comprises 'reasonableness' (which inevitably will be situated on a continuum of opinion), and then trying to construct systems to fairly measure allocations back to the time period in which the expenditures occurred, is certainly ridiculous, without empirical basis, and as the U.S. Supreme Court notes, unconstitutional were it to be used to create measures by which solicitation-worthiness would be governmentally enforced.

7. Miscellaneous – Improvements/Clarifications Necessary for Reporting In-flows and Out-flows as well as 'Flow' of Form's Parts/Schedules

Time constraints prevent me from providing no more than a summary of suggested improvements here (these all reflect numbering of Parts and Lines in the draft Redesign):

a. Part IV Line 1: Membership fees that are equivalent to contributions have long been understood by exempt organizations as comprising gift income (and would be accordingly, deductible as a charitable contribution for the payer who remits same to a 501(c)(3) organization). **Filers should be allowed to show such members' dues or remittances on a sub-line of Line 1 in the Statement of Revenue (e.g., at a new Line 1g).** Such reporting will allow organizations to more accurately reflect their capture of support from dues-paying members in total. That some dues may constitute an exchange payment (for tangible benefits provided in return) and accordingly be reported on Line 3 is understood by many filers, but this improvement will allow filers to be able to point to their *total* receipts of dues, which are now otherwise hidden when some are bundled (appropriately) into Line 1.

b. Part IV Line 3: Membership dues and assessments that are properly reported on their stand-alone Line 3 (at present and as the draft Redesign would continue) are really no more than a subsegment of Program Service Revenues. **I suggest a separate sub-Line of Line 2 be utilized for their input in lieu of Line 3. If this mechanism is not adopted, Line 3 should at least state “not including any dues reported on Line 1x as gifts”.**

c. Part IV Line 1c: A line for gifts received in the course of fundraising events should retain similar titling to the language of the present form rather than rely on a cross reference from the latter appearing Line 11a (**and thus be titled “gifts captured in special or fundraising events or activities”**). See my comments in point 8, following, re difficulties anticipated regarding reporting and disclosure of fundraising activities.

d. Part IV, column (D) [applies at Lines 2 and following]: Many commentators have been confused as to whether this Column would continue the use of the so-called *Exclusion Codes*. I see that same are in fact called for in the Instructions in a “Caution” that follows the Instructions for Lines 2a-2g. **Exclusion Codes should be continued in use for ALL revenue Lines 3-12.**

e. Part IV Line 2c: **This line need be titled “revenue from program-related investments”.**

f. Part IV Line 2d: The Instructions do NOT state whether program-related inventory sales are to be reported on this Line or on Line 12a. The current Form fails to allow entities other than hospitals and colleges to report program-related sales of inventory as program service revenue. The explanation long in place for why inventory sales, when program related, should go on an inventory line rather than the program service revenue line is that the State regulators do not like the opportunity for program-related inventory's *cost* to be counted as a program expense in the “Statement of Functional Expense(s)”. As you will remember, I strongly recommend the deletion of that ill-applied, errantly treated, and specious “Statement”. **Regardless, allocation of cost of goods sold as a potentially problematic ‘program expense’ should not be used as a rationale for having program-related inventory sales handled as other than program service revenue on Line 2, and accordingly, an Instruction stating such revenues belong on Line 2's subpart is necessary.**

g. Part II, missing line: **“Insurance” – most organizations have insurance expense, please add.**

h. Part II, missing line: **I suggest that a couple of blank lines be retained as “placeholders” for future new items that may be mandated by Congress (as Line 18 was by the *Pension Protection Act of 2006*).**

i. Part IX, Line 3: **remove the “grants and allocations” parenthetical. Same is confusing, inconsistently applied, and not necessary.**

j. Part IX, Lines 1 and 2: please see my prior comments (letter of September 7, 2007) in which it is emphasized that Part I need emphasize (and summarize) the filer's exempt purposes (not mission) and chief activities. **Lines 1 and 2 need be altered to reflect such reporting.** Line 3 would continue, as the current Form 990 does at Part III, to have narrative exposition on the

quantitative output of the organization's three (draft Redesign) or four (current Form 990) largest activities.

k. Parts VII and VIII. Jody Blazek's firm, Blazek and Vetterling, has prepared reordered Parts VII and VIII which are wonderful. **The logical reordering of the inquiries mishmashed over these two parts in the draft Redesign undertaken by Blazek and Vetterling should be adopted.**

l. Part IX. This Part expands upon what is at present Part III of the current Form 990. Until 2005, that Part III appeared on the 2nd page of the Form – as of the 2005 Form, Part III was given an entire page – with more room for entries explicating the organization's program service accomplishments. **This Part gives context to the entirety of information an organization presents – the efforts individually undertaken in moving to accomplish the organization's exempt purpose(s), what those "in charge" (i.e., the TDOKE's) have presided over in applying the organization's assets and inflows, and how compliance has (or hasn't) been achieved in the operations overall that create and support the organization's programmatic outputs. Accordingly, this Part should be the first page AFTER the Part I Summary, retaining the prominence it has achieved in the initial pages of the current Form 990.** The sector has been hearing for multiple years now that this Part of the Form (i.e., present Form 990's Part III, represented largely at Part IX by Lines 3a-d) is the most important individualized preparation arena of the Form. Having Part IX appear on the 10th page of the filing will remove this Part from ready scrutiny by the public, add to frustration from filers who "want to tell their story" and all those who indeed appreciate the transparency the Form increasingly has brought to bear on the sector, and serve no advantageous purpose to filers or the public.

m. Part X, signature block. **Preparer's SSN or PTIN and EIN blocks should be removed.** The General Instruction cited in the first of those two blocks does state that this information need not be provided by 501(c) or 527 exempt filers, but only organizations who are nonexempt charitable trusts under Code Section 4947(a)(1). That instruction has *long been missed* by preparers, including sophisticated exempt organizations tax practitioners. In this day and age of privacy concerns, there is no reason for a preparer's SSN or EIN to be on a document that will be open for public inspection because of inadvertent misunderstanding of instructions. **I urge changes so that a specific question (such as Part VII's Line 13) be augmented to state that organizations filing Form 990 as a tax return (rather than an annual "information return") must have paid preparer's SSN or TIN, as well as a firm's EIN, provided in addition to the paid preparer's signature, provide same here: _____**

8. Schedule B

The Redesign project affords an opportunity to clean up problems that the 2000 Form-year issuance of the current Schedule B created. The key four arenas of concern all stem from the lack of Instructions (and attendant confusion) accompanying the Schedule. **These should be addressed as follows:**

- A direction to filers to NOT report upon (i.e., include) government contributions. Code Section 6033 (and other law) does not appear to reach government payors as those for whom donation information need be provided
- Clarifying the “use” of the three boxes provided by which filers check-off whether the donation reported upon is noncash, from a payroll donation program, and/or from a person (if payroll and person are ‘alternatives’ this should be stated in Instructions or perhaps the question boxes could be modified)
- Whether the Schedule is to be completed upon the cash or accrual method of accounting
- Explaining what information is to be redacted from the Schedule B’s public inspection copy in order to protect the identity of donors since same is not required to be disclosed by Form 990/990-EZ filers

I also ask why there is an administrative convenience reporting “exception” that would allow those organizations meeting the 33-1/3 public support standard under Code Sections 509(a)(1)/170(b)(1)(A)(vi) to only list gifts in excess of 2% of their total contributions. The practical result here is that a community foundation who has \$10,000,000 of gift income is only required to provide Schedule B information on donations of \$200,000 or greater, while a small organization of \$1,500,000 would be required to provide information on donations of \$30,000 or greater. Given that the Schedule B information regarding the identity of those giving such donations is NOT for public inspection, one would assume that the IRS needs this information to accommodate tax compliance in ‘matching’ receipts reported by exempt filers with donations reported by donors on their individual or corporate or gift/estate income tax filings. The query that I have is whether there is no concern for tax compliance in the examples here by which we have donors making gifts of under \$30,000 to a \$1.5 million organization or donors making gifts of less than \$200,000 to a \$10 million organization? **If this convention (or the reporting mandates) are out-dated or unnecessary, it is time to update it/them. Alternatively, perhaps the utility of the Schedule B has expired entirely.**

9. Related to Reporting and Disclosure of Fundraising and Gaming Activities

This final section of my comments is designed to raise multiple issues that the IRS need be cognizant of in taking what may admittedly be a less-than-sophisticated sector (from a reporting perspective) and maintaining consistent expectations and standards in what disclosures need be made with respect to fundraising events, fundraising activities, and gaming operations.

The principles I assert here as necessary of respect are ones which the exempt sector has been hearing more and more over the last 14-21 years. The ability of the sector to ignore what at the time was a faint drumbeat ended back in 1994 and 1987, respectively, as tax laws changed to require exempt organizations to remind those they induce to give by exchange (in part) of goods or services that no charitable contribution deduction exists for what is tantamount to a ‘buy’ of the exchanged goods and services and, in the earlier tax law change, to require exempt organizations that solicit non-deductible contributions to state that gifts to them do not correlate to “charitable contributions”. Also, the 1994 law change stops would-be donors from claiming a “charitable contribution” deduction valued at \$250 or greater without having a “written substantiation” from the recipient stating what created the ‘gift’ (by date) and whether any goods

or services were provided to the donor. Accordingly, exempt organizations of all sizes are typically aware, no matter what sophistication they may have of financial reporting or Form 990 preparation, that their fundraising dinners' ticket prices (as with most other 'fundraising events' or activities – such as sales of framed prints thematically tied to the organization's exempt purposes) do not wholly equate to contribution revenue.

What HAS been confusing to the exempt sector is the more arcane points that the current Form 990's Line 9 inputs require (e.g., what comprise direct expenses when one excludes "fundraising expenses"?), what are the "fundraising expenses" that are indeed typically associated with special/fundraising events. The draft Redesign's Part IV Line 11a-c would continue the current reporting conventions from the present Form's Line 9a-c, and is to be commended for doing so. However, the SCHEDULING would change as reporting on 11a amounts in excess of \$10,000 would mandate the attachment of the *pro forma* Schedule G which alters in fundamental ways several of the principles the current Form 990's scheduling applies with respect to fundraising events and activities. As the \$10,000 threshold will hit most organizations – the small organization soliciting support of the organization through attendance at an annual event will often be able to 'sell' 200 tickets at \$50 apiece; extremely small organizations may be selling donated T-shirts or other paraphernalia -- \$20 sales 500 times during the year gets those groups to this threshold. **I strongly recommend that there in essence be two Schedule G's – the one provided with the draft would be applied to organizations whose gross income from special events and fundraising activities exceeds \$50,000, and an "easy completion" Schedule (G-EZ?) be employed for organizations whose gross income from fundraising events falls between \$10,001 and \$50,000. The "easy completion" one would utilize the same scheduling methodology as the present Form 990.** The increased threshold by which the draft Redesign's Schedule G would apply will avoid placing undue burden that "changing horses mid-stream" is certain to place on the many extremely small, small, and medium size organizations who have struggled to learn to "do it right" on the present 990.

And finally, the Part IV Line 11a, Instructions' draft has multiple ambiguous representations which conflate tax deductible receipts taken in at activities with those that are NOT true gifts when taken in at events. The chief example of this would be the last example on page 26, in which the so-called 'nominal goods' exception is "explained" in a way that purports to have a fundraising dinner be completely tax-deductible which it would not be assuming there was a meal provided. Many practitioners have expressed willingness to help with drafting Instructions (a task that they may be too exhausted to actually accomplish once they finish this comments process).

Unfortunately, I have run out of time and accordingly cannot provide more comments on the Schedule G as it has been drafted, particularly in respect to gaming activities, or on Schedule R.

I thank you again for your attention to both this submission and my prior one of September 7th. As noted in that earlier send, I appreciate that it will take a "Super human" effort by you and your staff, on the timeframe your offices have committed to, to synthesize the many cogent comments and critiques coming in and accordingly initiate revisions to the draft Redesign's Core

Form and Schedules. As the close of the comment period tomorrow marks the initiation of those efforts, I remind you of our need overall (in the exempt organization world and beyond) for *Superhero*'s, and I wish you all the best as you attempt to join their ranks.

As always, please feel free to contact me at 612.822.2677 _____

Sincerely,

Eve Rose Borenstein
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2836 Lyndale Avenue South
Minneapolis, MN 55408

From: [Julie Wiman](#)
To: [*TE/GE-EO-F990-Revision;](#)
CC: [Barb Fajen;](#)
Subject: Comments on redesign of 990
Date: Thursday, September 13, 2007 5:52:18 PM
Attachments: [SKMBT_60007091318530.pdf](#)

Please see attached comments.
Julie

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From: scan@sjsq.com [mailto:scan@sjsq.com]
Sent: Thursday, September 13, 2007 1:53 PM
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Sent via email to : Form990Revision@irs.gov

September 13, 2007

Internal Revenue Service
Form 990 Redesign, SE:T:EO
1111 Constitution Avenue, NW
Washington DC 20224

Re: Comments on the Revised Form 990 and various schedules

Dear Sir or Madam:

We are writing in response to your request for public comments regarding the revised Form 990. Below is a list of our concerns regarding the redesigned form. We have addressed our comments while keeping in mind the three main goals set out by the IRS regarding the redesign of the form:

- to enhance transparency by providing a clear picture of the organization and how it compares with other organizations;
- to promote compliance through a more complete reflection of the organization's operations; and
- to minimize the filing requirements burdens by requiring only relevant schedules to be completed.

Comments on the Core Form 990

General Comments

We would suggest **bolding** the font on the tax return lines that carry to page 1.

We recommend having one page with all the information needed by the IRS that would not be subject to public inspection similar to the current Schedule B, including such items as the address of the principal officer and home addresses of Board Members. We understand the concerns of transparency; however, some information should be protected for privacy purposes especially when identity theft is a concern.

There are many questions which seem to illicit good governance. The questions are very straightforward and the charity knows the proper answer. It makes it easy for the charity to give the "right" answer and not necessarily think through all the implications and benefits of adopting a practice. Our suggestion is to have a separate sheet of "suggestions for good governance" and include questions such as Page 8, Part VII Question #11 and #12. On this separate sheet, having an officer sign is acknowledgment they have read the "suggestions for good governance" and are aware of these practices.

Page 1

Item F – The instructions call for the complete mailing address of the Principal Officer. We are concerned with issues of identity theft if the home address is required to be submitted.

Part I

Line 6 – The \$100,000 compensation threshold should be indexed for inflation annually.

Line 7 – We are not sure that this question adds value or supports any of the goals set out through the redesign. This information is readily available on Page 2. Is it necessary to highlight one person's salary? Just looking at one person's salary by itself does not necessarily tell the whole story.

Lines 8b and 19b – The percentages calculated by these questions can be misleading without a source of comparison. The ratios appearing without a reference point would not enhance the transparency or provide a clear picture of the organizations, and each organization would function most efficiently at different percentages depending on their function and structure.

Lines 25 & 26 – If the concern is to clarify the amounts received from gaming and fundraising, We recommend simply adding lines requesting those sums in Part IV – Statement of Revenue and Part V Statement of Functional Expenses.

Page 2; Part II

With the surge in problems with identity theft, we are concerned that even providing only the city and state for highly compensated individuals could pose another threat. The private information should be part of the one page not open to public inspection as mentioned above in the general comments.

Page 3; Part II Section B

Line 4 – We would suggest instead of using \$100,000 as a measure for additional disclosure, use a percentage of the individual's salary or multiple of their salary as the measure.

Line 5 – In keeping with the third goal of reducing the burden of filing, a five year look-back period seems to require extensive record keeping. We would suggest using a two year period instead.

Line 10a – It is unclear whether this line should include business entities if they are independent contractors or unincorporated individuals. From reviewing the glossary it appears to not include business entities. If business entities are to be included, then the glossary or the instructions should state the inclusion as such.

Page 4; Part III

Line 3b – The form requires the organization to count the number of transactions that the organization reviewed under its conflict of interest policy, but does not clarify what qualifies as a counted transaction. Quantifying these transactions would make additional record keeping for the exempt organization. We recommend asking if the organization has a conflict of interest policy. Also, ask the question "what is the organization's practice for reviewing such transactions."

Line 8 – The first part of this question seems redundant since one of those individuals would have to prepare the financial statements. The second part of the question should be the only question asked.

Line 11 – The items listed for disclosure should be divided into two groups; those required to be disclosed to the public and those not required to be disclosed. The way the question is currently represented could lead to the public misconception that an exempt organization is not disclosing items that it should.

Page 8; Part VII

Line 17 – The question seems to overlap with the non-cash schedule and Schedule B.

Page 9; Part VIII

Lines 5d & 7a – By listing code sections in the questions, the form does not lend itself to public review. The goal of transparency is lost if the questions are not understandable and independent of reference materials.

Lines 9b & 10a – If a tax exempt entity is aware of payroll filing deficiencies it would not seem logical that they would admit to those deficiencies when filing their Form 990.

Comments on Schedule H

From reviewing the form with many professionals and discussions with hospitals, of our major concern is the burden of reporting the information. The instructions for Schedule H, and specifically the information that is being requested, should be better defined. The terminology should be changed to the industry standards and the instructions should better define the terminology.

There is a great amount of information requested that hospitals will need to capture within their administration. It is difficult for them to capture the data when they are not positive what information is needed.

We are also recommending delaying the implementation until 2010. Hospitals need to be able to capture the information being requested. Therefore, they will need to work with the systems they have in place or develop another means to capture the data. This will take a substantial amount of time and effort. Therefore, we believe delaying the implementation will give them the added time to capture the proper information.

Another item of concern we have is reporting for critical access hospitals. The majority of rural hospitals are critical access hospitals with 25 or fewer beds. These hospitals have minimal administrative personnel which are already being utilized at capacity with running the hospital.

Furthermore, the size and sophistication of community benefit programs of many critical access hospitals vary greatly from that of urban hospitals. For the most part urban facilities have an entire department of their administrative staff dedicated to community benefits. Whereas, the critical access hospitals may return benefits to the community primarily through uncompensated care and health fairs. Schedule H does not take into consideration the differences between the sizes of hospitals.

Due to these differences we believe critical access hospitals should only be responsible for completing lines one through five and seven or exempt from preparing Schedule H altogether.

Part I

Hospitals take great pride in community benefits. However, following this form through the many worksheets can be confusing. As we mentioned before information requested should be better defined through the instructions.

Column (b), an exact number of persons served in each area may be difficult to quantify in many instances.

Column (f), this is difficult to use as a comparison across all hospitals. Critical access hospitals are not going to have similar percentages to those of hospitals in an urban area. There are many other examples where the percentages are not comparable from one exempt hospital to another.

Part II; Section A

This schedule does not have anything to do with a hospital's community benefits. Therefore, we believe this schedule should be eliminated from the Schedule H.

Comments on Schedule J

Aside from the identify theft concerns already mentioned above, we believe that the new Schedule J poses some significant burdens to exempt organizations that for profit entities are not required to comply with. While the need for transparency and checks and balances is appropriate, exempt organizations must remain competitive, and adding rigorous filing requirements will not support their mission. We believe some of the questions are tantamount to a paper audit, and the disclosure may hamper recruitment efforts by tax exempt organizations. The schedule does not allow for a tie back of the compensation amounts to the specific duties and services provided by that compensated individual.

Please contact either of us if you have questions or would like clarification of our comments.

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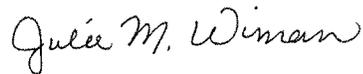
We appreciate the opportunity to offer our comments on the redesigned form and hope that our comments as well as those of our fellow preparers will be carefully considered before the final version of the form is released.

Sincerely,

SEIM, JOHNSON, SESTAK & QUIST, LLP



Barbara J. Fajen



Julie M. Wiman

BJF/JMW:kd
Enclosure

From: [Lynne Munson](#)
To: [*TE/GE-EO-F990-Revision;](#)
CC:
Subject:
Date: Thursday, September 13, 2007 5:16:12 PM
Attachments: [IRSForm990.doc](#)

September 13, 2007

Form 990 Redesign
ATTN: SE:T:EO
1111 Constitution Ave., N.W.
Washington, DC 20224
Via email

To Whom It May Concern:

Colleges and universities are hoarding billions and billions in tax-free funds that should be spent to the benefit of the public. Most of these funds were donated by alumni and others who hoped to provide a better education for more young Americans. Instead their gifts are accumulating in endowment investment accounts, doing little more than burnishing the image of the institution and its leadership.

The secrecy that has long surrounded these endowments has helped to create the current situation. The federal government has never required colleges and universities to supply any publicly available information with regard to endowment funds. So for decades schools have hoarded monies without the threat of public scrutiny. Now at least 62 institutions have endowments that exceed \$1 billion. Massive endowments are no longer just an Ivy League trait. Four of the top 10 higher education endowments are at public institutions.

This secrecy has also allowed schools to maintain miserly payout practices without fearing a public backlash. Whereas private foundations spend an average of 7% of their value annually, college and university endowment spending hovers around 4%, leaving incredible sums behind to be perpetually reinvested. College and university endowments grew,

on average, 17.7% last year. These gains have come at a time when tuition increase has reached all-time highs. The combination of runaway tuition and miserly endowment payout practices has caught the attention of the public, policy critics, and legislators each of whom is demanding to know more (see article and comments below).

The IRS's proposed revisions to Form 990 are an excellent starting point. Should these revisions be adopted colleges and universities will be required to divulge publicly the size and level of spending from their endowment. This information has never been made widely available. The only peek at these numbers the public has gotten consists of instances when a college press person mistakenly mentions a payout percentage or, more often, an endowment manager brags about investment performance and includes some specifics.

Harvard has been circulating a "bragging" letter each year—called the John Harvard letter, which is sent to "the friends of Harvard." Interestingly Harvard recently decided to suspend the letter, in part because of a desire to be more "cognizant of the need to appropriately limit what we disclose about investment strategies and vehicles" (August 21, 2007 letter). One wonders how concerned Harvard could be that rivals will use its investment strategies to overtake its top ranking. After all Harvard enjoys a \$10 billion cushion over Yale, the second most heavily endowed institution of higher education.

The most recent, and perhaps final, John Harvard letter contains some information that is instructive for our review of the 990. First, Harvard makes a distinction between the funds in its endowment and those in what it calls its General Investment Account. Harvard reports to John Harvard readers (and would likely also to the IRS) that the current size of its endowment is \$34.9 billion (up from \$29.2 billion in June 2006). But then—in literally the next sentence—Harvard explains that "the total value of the 'General Investment Account' (GIA), which constitutes the pooled assets managed by HMC [Harvard Management Company] that include the endowment and related accounts, grew from \$33.7 billion to \$41.0 billion."

So—what's the difference between the endowment and the

GIA? Readers of the John Harvard letter aren't given a definitional distinction and I doubt the IRS would get one either. As it is currently written, the proposed revisions to Form 990 include no definition of what the IRS means by endowment. Unless a clear definition is provided, and unless the IRS polices respondents to make sure their reporting is accurate, the information colleges and universities will supply will be unreliable and incomparable. Not only do many schools—Harvard is not alone here—already have an array of fuzzily defined accounts into which they pour and manage endowment funds, but the board of any institution can redefine what it means by endowment at any time.

Requiring institutions to follow—at least in their reporting to the IRS—a specific definition for endowment will affect the accuracy of all reporting in this area. For example: The John Harvard letter contains a passing and completely unelaborated reference to the amount that was paid out of Harvard's endowment in FY2007: \$1.1 billion. This sounds like a lot. But \$1.1 billion constitutes either a mere 3.15% or 2.7% of the size of Harvard's endowment, depending on whether you use “endowment” or GIA as the basis of your calculation. Either number is well below the already alarming low average rate of endowment spending by colleges and universities.

Finally, the IRS should require institutions of higher education to provide an explanation for their rate of spending. The IRS indicates a desire to obtain a “rationale for such accumulation” in its overview of the Form 990-Schedule D redesign but there is nothing in the revised form that would provide for it. The existence of endowments requires a sacrifice from all Americans. When an alumnus donates to his alma mater he can immediately deduct that donation from his taxes. But his donation can sit for years—decades (centuries?)—in an endowment account without public benefit. There should be significant public pressure on colleges and universities to spend their endowment funds in the public interest. And they should be held to account when they adopt miserly spending practices.

The IRS is taking some important first steps in increasing public accountability of college and university endowments. But it must define its terms

clearly and require institutions to provide all pertinent information. If it does not the IRS won't be opening the blinds and letting in the sunshine, it will be providing institutions of higher education with an opportunity to look like they're honest and open even if they're not.

Sincerely,

Lynne Munson
Adjunct Research Fellow
Center for College Affordability and Productivity
Former Deputy Chairman, National Endowment for the Humanities
Washington, DC

Inside Higher Education

July 26, 2007

Robbing the Rich to Give to the Richest

By Lynne Munson

Sen. Edward M. Kennedy, fresh from an investigation of the student loan industry, is out with a plan he says will “help reverse the crisis in college affordability.” Kennedy’s Robin Hood approach takes \$18 billion from lenders and applies it to reducing loan repayment costs for students, among other purposes.

The student loan business is a lucrative one. But the senator is going after the wrong folks if he’s trying to rein in the biggest “fat cats” in academe. That mantle should rest on the shoulders of colleges and universities themselves. Legislators setting policy with regard to higher education should realize that colleges and universities are our nation’s richest — and possibly most miserly — “nonprofits.” Colleges and universities are sitting on a fortune in tax-free funds, and sharing almost none of it. Higher education endowment assets alone total over \$340 billion. Sixty-two institutions boast endowments over \$1 billion. Harvard and Yale top the list with endowments so massive, \$28 billion and \$18 billion respectively, that they exceed the general operating funds for the states in which they reside. It’s not just elite private institutions that do this; four public universities have endowments that rank among the nation’s top 10. The University of Texas’ \$13 billion endowment is the fourth largest nationwide,

vastly overshadowing most of the Ivy League. These endowments tower over their peers throughout the nonprofit world. The Metropolitan Museum of Art is America's wealthiest museum. But the Met's \$2 billion endowment is bested by no less than 26 academic institutions, including the University of Minnesota, Washington University in St. Louis, and Emory. Indeed, the total worth of the top 25 college and university endowments is \$11 billion greater than the combined assets of their equivalently ranked private foundations — including Gates, Ford and Rockefeller. Higher education endowments also are growing much faster than private foundations. The value of college and university endowments skyrocketed 17.7 percent last year, while private foundation assets increased 7.8 percent. Just 3.3 percent of the increase in academic endowments is attributable to new gifts. Most of the gain is a result of stingy, outdated endowment payout policies that retain and perpetually re-invest massive sums. This widespread practice results in a hoarding of tax-free funds.

A recent survey of 765 colleges and universities found they are spending 4.2 percent of their endowments' value each year. Meanwhile, private foundations — which are legally required to spend at least 5 percent of their value annually — average 7 percent spending. Higher education endowments differ from private foundations in one particularly important respect. Private foundations exist to give their money to others, while college and university endowments support just one charity — their school. But isn't being your own sole beneficiary reason to spend more, not less? Particularly when a substantial area of spending — financial aid grants to current students — targets precisely the people you expect will be your future donors?

Paradoxically, it is precisely the meager financial aid outlays of endowment-rich colleges and universities that make the true miserliness of low payout practices most apparent. Stanford University spends \$76 million on undergraduate financial aid, a sum that sounds generous but amounts to a mere 0.5 percent of the value of its endowment. The university spends just 4 percent of its \$14 billion endowment toward operating expenses. If the 5 percent payout rule required Stanford to spend another 1 percent of its endowment, and that money was directed toward financial aid, students would enjoy \$211 million in

additional support. That is precisely the cost of letting all 6,600 Stanford undergraduates attend tuition-free.

The University of Texas' nine campuses enroll 147,576 undergraduates who each pay on average \$5,903 in tuition. All of U.T.'s undergraduates could attend school tuition-free if the system spent half the amount the university's endowment grew just last year. Of course just because a college can afford to offer education tuition-free doesn't mean it should. Giving a free ride to students who can afford to pay obviously would cut into the bottom line in other ways. Also, education is a real service for which people should pay. And a higher quality education should command a steeper price.

But college and university endowment spending practices should reflect the public responsibility that adjoins tax-free status. When people donate to a school they get a tax break because their donation is supposed to serve the public. When those untaxed funds sit unused, piling up for decades, taxpayers are making a sacrifice and getting nothing in return. College and university endowments currently are exempt from the 5 percent annual payout requirement. Institutions of higher education aren't even required to publicly report endowment payout rates or the purposes for which funds are spent. And the only organization that collects that information, the National Association of College and University Business Officers, does not make it public, except on an aggregate basis. Congress should require payout rates and specific expenditures for individual institutions to be made public each year. And if this "sunshine" fails to drive up endowment spending, a minimum payout requirement should be established. And 5 percent should be considered just a starting point. College and university endowments exist to support current operations. But if that only requires a mere 4 percent draw, clearly there is ample room to use additional endowment funds for purposes that serve the public directly. For example, why not take some of the burden off students, families and taxpayers by providing more financial aid to needy students? After all, why should taxpayers be subsidizing an ever-burgeoning number of student loans while schools can afford to provide more scholarships? For too long the government response to skyrocketing tuition has been to increase the size and number of

student loans. Now the plan is to make loan repayment easier and increase grant aid again. But making it possible for students and parents to go more deeply into debt only encourages endowment hoarding and runaway tuition. It is time for legislators to come up with a smarter strategy for addressing college affordability — one that will pressure colleges and universities to better serve students, families, and taxpayers. And getting schools to stop hoarding billions in tax-free funds would be a good first step. The high cost of education has consequences. When asked to name an expense that is beyond their reach, people cite “paying for college” more than buying a home, retirement, or anything else. The intimidating effect of high tuition is the largest “access” problem in American higher education. If colleges and universities truly want to open their doors to all, they will begin by sharing their riches.

Lynne Munson, an adjunct research fellow at the Center for College Affordability and Productivity, served as deputy chairman of the National Endowment for the Humanities from 2001-5. She is at work on a book on endowment hoarding.

Comments

WHY NOT JUST LOWER TUITION?

Hmm. Why go through the roundabout process of giving scholarships to defray tuition costs? That’s just taking money out of the left pocket to put it back into the right (minus a lot of salary and operating costs to administer the process). If colleges are going to use more of the return on their endowments to assist students, why not simply lower tuitions? When Stanford first opened in the 1890s, it was free (gasp!).

Cranky Old Prof, at 7:40 am EDT on July 26, 2007

THE 80/20 RULE APPLIES

I can hear the howls of protest from schools around the country: “Our endowment is zip!” “Our costs are through the roof!” “Our legislature hasn’t given us squat!” “Our infrastructure is shot!”

All true, no doubt about it. The majority of schools in the US are living hand to mouth. There are a hundred reasons why this is true, and legislation, no matter how good, won’t be able to address the fiscal health of every single college.

Ms. Munson demonstrates that the tip of the academic iceberg accounts for the lion’s share of dollars donated to education. And Wick Sloane recently pointed

out that billions are donated every year, but predominantly to a handful of already-wealthy institutions.

In the US, 16% of GDP is currently devoted to health care. In the aggregate, this is plenty of money to provide top-notch care to the entire US population. Nonetheless, our system is a mess, with gaping holes in availability for vast numbers of people. Similarly, at the postsecondary level, U.S. expenditures per student were \$24,074, higher than the OECD average of \$11,254. I couldn't find comparable GDP percentages for postsec education, but at this rate of spending, you would expect us, again in the aggregate, to have all the money we need to educate all comers. Instead, we have rampant inequality of financial outcomes for similar educational experiences, at both the level of individuals, and institutions.

Most of this is not the fault of the wealthy upper crust: it is the inevitable result of the miracle of compounding interest. Now, however, really is time to level the playing field. Confiscatory impulses must be avoided. The money is out there, but must be allocated more efficiently. There are a lot of bright boys and girls in every sector involved in this issue. Is greed among schools and lenders (and profligate spending by education consumers) the only obstacle to overcome?

finaidfollies, at 8:15 am EDT on July 26, 2007

ON HOARDING UNIVERSITY ENDOWMENT FUNDS

Lynne Munson is to be commended for her work on the subject of endowment hoarding. Her article stated that endowment funds at Harvard alone are valued at \$28 Billion. Let's crunch a few numbers to see what this means in the real world. Using only a 3% rate of return, the Harvard endowment fund should earn at least \$840 Million per year. The Cost of Attendance at Harvard is listed on their webpage at \$50,950 per year, undergraduate. Of this amount, \$31,456 is for tuition and fees. There are about 6,700 undergrads at Harvard and about 12,400 grad students. On a per student basis, endowment income alone should be about \$43,979 per student. These figures are truly startling! When you look at the rising cost of attendance in higher education, they add legitimacy to Ms. Munson's thesis. It is unquestionable that we need to rein in the predatory lending practices among some in the student loan industry. But it is equally true that our most elite universities and colleges must also shoulder much of the blame for the greed that has

infected higher education to the great detriment of a whole generation of American students.

feudi pandola, at 8:15 am EDT on July 26, 2007

I have no quarrel with your assumption that more endowment money could be used for student aid, which unlike reducing tuition for all, allows the benefit to be directed to those who cannot afford to pay.

However, the approach is feasible at only a small fraction of institutions who have significant endowments. While some public institutions, as you note, do have sizable endowments, and more are developing them as a safety net for declining state funding, most public institutions do not have the option of spending endowment funds they do not have. Likewise, many private institutions have limited endowments as well. While every little bit helps, we need a more universal solution to the problem.

Richard Tombaugh, at 8:25 am EDT on July 26, 2007

TIME FOR NEEDS TESTING AT THE INSTITUTIONAL LEVEL?

Reading this article and comments made me wonder — is it time to needs-test institutions to determine if their students can participate with specific aid programs? Does Harvard really need access to Pell Grant funds at the same level that an inner city community college does?

A very thought provoking article.

Observer, at 9:15 am EDT on July 26, 2007

Ms. Munson makes some interesting points, but fails to understand (or at least fails to mention) that University endowment spending is ALREADY offsetting the cost of tuition. At most institutions, the tuition a student pays does not fully cover the cost of educating that student. It is the endowment spending that offsets the remainder of those costs. It may be time to spend MORE endowment money on this, but to imply endowment spending doesn't offset tuition costs already smacks of sensationalist journalism.

Kyle Johnson, at 9:30 am EDT on July 26, 2007

WANTON GREED = SLM, NNI

- Three corporate jets - #2 Most Profitable Company in America - \$57 million CEO annual compensation - \$270 million Chairman compensation for 2007 - Exec VP commissions 60 original works of art - Chairman builds private 18 hole golf course

That description applies to Sallie Mae

That wanton greed and conspicuous consumption does not apply to colleges and universities. We understand that NASFAA is still taking money from lenders for their

regional meetings — even though their organization agreed not to.

Yes. . . Universities are highly inefficient. The recent scandals involving Financial Aid Administrators also brings into question their integrity.

But the most apparent greed and blatant excess is located with lenders — lenders that ARE NOT central to the education process.

Frederick, at 9:50 am EDT on July 26, 2007

EXCELLENT ARTICLE!

Someone on a discussion group recently proposed funding “by and for the students.” I like that. I think this is where Alumni Associations can really help, not just with grants and scholarships for current students but for alum with loans as well. Or even consider the reverse process: Alums support current students with the idea that when current students graduate, they pay back what they were given. Alumni Associations operate somewhat to this extent already, which is why it’s important to give to them...BUT...when students graduate with huge loans, it becomes impossible to give back to anyone (I mean outside of working inservice fields, being a good citizen, etc. I don’t mean that in a demeaning way). This is also where colleges can get more into direct lending, where the money goes back to the college and NOT back to lenders. Of course, the colleges and Associations have to be careful here—don’t hike interest rates or tuition to suit some institutional whim. Provide a viable service to students. I know I got a Perkins loan right through my state college, and it’s one of the first loans collected after graduation (or at least, it was that way in 1995). The payments were manageable because they didn’t include huge, accrued interest. I paid it off. I felt proud. I was able to give back to the college that meant so much to me. If I had money, I would love to provide merit scholarships to the Community and State colleges from which I graduated. But how can I or other students do that when they get out college already under the financial gun?

The programs are already in place in many colleges and universities. The programs just need to be strengthened.

kgotthardt, at 9:55 am EDT on July 26, 2007

The article, I think, misses out on a larger point: most financial aid goes to students who are not at these top 50 schools with large endowments. To focus

on Harvard is the worst example. At Harvard, the average student can either afford to pay for their education, or they receive substantial funding from the university to attend (for some under a certain amount, it is free) if they are accepted. As for the University of Texas: large research universities might have a large endowment, but per capita, it is much lower than many colleges with 1/4 of its endowment. Additionally, UT- Austin, the flagship, only gets about less than half that amount. While it could subsidize tuition, the tuition is already the lowest in the country for a school of its calibre, and it seems like a better interest for UT to save for a rainy day and continue to try to become a better research university. Writers looking at the money always do so from outside of an institutional perspective based upon competition with ones peer groups. People with money should spend it; but they also want the university to be high up on the US News and World Reports. This duality is a paradox that people need to address. We either want cheap undergraduate degrees or we want to bulk up our research to compete with the world. It's hard to have it both.

Now schools like Indiana University North-west or Ohio State-Lima are in a different situation and the author, to be balanced, should have focused upon them because they have no money. The article might have focused as well on schools that are chronically underfunded by the state and by their larger parent universities. This would have added some balance to the story. If one wants to complain against the high endowments, fine, but when one starts examining where the money is going (or what it is being saved for), there finds that there are no multi-million dollar CEO packages, private jet, or anything else associated with the for-profit market, and inevitably, the universities are projecting far into the future, which seems like a good thing to me.

B, University of Texas-Austin, at 11:50 am EDT on July 26, 2007

DESCRIBES ELEPHANT

Here we go again. Ms. Munson examines the leg of the elephant and thinks she has described the entire beast. One size fits all solutions never work.

Rather, than trying to find a magic bullet that can be applied in an overarching way, it may be time for us to realize that each institution has folks who are

charged with running the school, and whether you agree with whether they are doing a good job of it or not, it is just possible they have a better understanding of what is needed for their college than all of the brainiacs on this blog. Further, if college is so expensive and the FAFSA is so complicated why does the number of college goers keep going through the roof. A larger percentage of the U.S. population is going to college than ever before in our history. We are even paying for illegals to go to school. Perhaps the sky is not falling.

Blind Man, at 1:25 pm EDT on July 26, 2007

“TUITION-FREE MIT”

Philip Greenspun wrote an essay in 1998 called “Tuition-free MIT” which has attracted a lot of attention on the web since it was first published.

Reform-minded readers should consider his arguments:

<http://philip.greenspun.com/school/tuition-free-mit.html>

R.J. O’Hara, at 3:00 pm EDT on July 26, 2007

BRAVO TO LYNNE MUNSON

The hardest part of covering or analyzing this endowment situation is that the wealth aggregated at the top is so huge that no one believes what you write.

With \$27 billion in endowment at a 10% return (near the NACUBO average, a rate low enough to get to ensure the firing of most investment managers), Harvard could pay 30% in taxes, which would be enough for 200,000 new Pell Grants. That’s a number big enough to be a national policy question; this point is not just a potshot at Harvard.

Harvard could do this and still eliminate tuition.

I’ve done the math across the Ivy League, with Stanford, Grinnell (endowment of \$1 million per student), Williams and all. I’ve done hard time in finance in education and in business. My policies and wishes may be unpopular with some. Even my critics concur with the math.

I’m the first to commend these institutions for excellent management overall. The wealth derives from hard work, immense alumni generosity, and superb investment management. When, though, is enough enough?

The U.S. already has a one-size-fits-all endowment tax policy. The poorest college is treated the same as the wealthiest. The U.S. doesn’t have such a tax policy for individuals or corporations. What you pay depends on what you have and what you’ve earned.

What the answer is to this situation needs sunlight,

as Lynne Munson says. Right now, there is no debate at all. The current tax-free hoarding equates to millions of Pell Grants, as one example, a year.

A student just came by at Bunker Hill Community College. This summer, for the first time, she'd had three meals a day for five weeks in a row. This was due to a wonderful, endowed program at Vassar College. Yes, plenty of these funds do good. The funding, though, at too many places is way over the top in amounts that add up to millions of Pell Grants. Now she's back here but the funding for her education isn't here.

Go Lynne Munson.

Wick Sloane, at 4:35 pm EDT on July 26, 2007

WOW. THAT'S ASTOUNDING

Wow. I must admit that I was unaware just how large many university endowments were. I knew that they, structurally, sit in the catbird's seat with respect to higher education finance, but didn't realize the astounding levels of funding levels they had achieved. Well done. This gives those of us mired in outrageous student loan debt—measured in multiples of the original amounts we borrowed with penalties, fees and interest—something to consider.

Alan Collinge, founder at Studentloanjustice.org, at 8:40 pm EDT on July 26, 2007

GIMME A BREAK

I would expect that if Ms. Munson enjoys any economic success from her forthcoming book on this subject, she should squander it by following her own advice for these well managed endowments.

Ben Ferrell, A College CFO, at 8:40 pm EDT on July 26, 2007

A point that might be added: the need-based aid always includes a student contribution from a job. In the days when British undergraduates paid no tuition and received a maintenance grant, Oxford and Cambridge were able to insist that student take on no vacation jobs, using vacations instead for ambitious programs of reading. It was possible to work at a much higher level of concentration because academic work was not constantly being interrupted to wait tables, perform clerical work and the like.

An American student who had established a career as a successful drug dealer in high school could presumably achieve a level of rentability for his or her time comparable to what he or she might later expect when armed with a degree from Harvard or Stanford; most

students at top universities, however, are prevented from getting the greatest intellectual value from these expensive courses by the requirement to earn money in (generally low-paid) student jobs as they go along.

Helen DeWitt, Dr, at 7:00 am EDT on July 27, 2007

Great article, I would not have expected that!

Manuel, at 6:30 am EDT on July 30, 2007

After more than a decade as a university administrator, I agree that colleges are miserly in their endowment distributions. In comparing to private foundations, these foundation are required by law to give away at least 5% of their assets in a year. Colleges have no mandated level and practice varies widely by college. I think two things would help: require colleges to pay out 5% per year (not the current voluntary practice of some percentage of their multi-year moving average) and remove the underwater limitation on endowment funds (as enacted by Congress).

Chris, at 3:20 pm EDT on August 16, 2007

RESPONDING TO CHRIS'S 8/16 COMMENT

Chris:

Can you explain this "underwater limitation" you mention?

Lynne Munson

Lynne Munson, Adjunct Research Fellow at Center for College Affordability and Productivity, at 5:00 am EDT on August 31, 2007

Wndowment spending does offset the cost of tuition.

The tuition a student pays does not fully cover the cost of educating that student at most schools. The endowment spending usually offsets the remainder of those costs.

Mac, at 4:00 am EDT on September 11, 2007

Got something to say?

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From: [Linda Lampkin](#)
To: [*TE/GE-EO-F990-Revision;](#)
CC:
Subject: Comments on Form 990 Revision
Date: Thursday, September 13, 2007 5:10:09 PM
Attachments:

September 13, 2007

Form 990 Redesign
ATTN: SE:T:EO
1111 Constitution Ave., NW
Washington, DC 20224.

Dear Sir or Ms:

ERI Economic Research Institute (ERI) welcomes the opportunity to comment on the proposed redesign of IRS Form 990. As users of the Form 990 data, we are very concerned about the quality of the reporting and the data collection systems. We welcome opportunities to work with the IRS, state regulators, and nonprofit practitioners, accountants, and researchers, among others, to increase the accuracy and timeliness of the data, and to promote its informed use.

The IRS concept of creating a core form with schedules that collect additional information on specific issues and types of organizations is a positive step, but there are many details that need to be addressed before the revisions are implemented. We support the comments submitted by Independent Sector but wish to emphasize certain issues and add the following comments.

ABOUT ERI

Founded in 1987 to provide research on compensation and benefits

for private and public organizations, ERI's research database software subscriptions are widely used by corporate compensation, relocation, human resources, and other professionals, as well as independent consultants and advisers, and US and Canadian public sector administrators (including military, law enforcement, city/county, state/provincial, and federal government pay administrators).

To provide the compensation information that nonprofits need to attract, retain, and motivate their top level employees, and to provide the analyses that regulators need to ensure compliance with IRS requirements on nonprofit compensation, ERI created the Nonprofit Comparables Assessor. Using data on compensation of over 28 million incumbents reported on more than 3 million Forms 990, this software allows subscribers to create customized reports on average salaries for over 100 job titles and functions reported on the Form 990. The user selects the subsector (defined by the National Taxonomy of Exempt Entities codes used by IRS to classify nonprofits), geographic area, date, and size (based on revenue or assets) and creates an analysis of compensation in comparable organizations.

Using ERI's Nonprofit Comparables Assessor, nonprofits and their advisers can easily develop benchmarks for compensation planning, as well as the detailed compensation comparables needed for a "rebuttable presumption of reasonableness," giving protection from IRS intermediate sanctions taxes and penalties. In addition to use by public charities and private foundations, this information is needed by the consultants, attorneys, and accountants that serve the sector.

JOB TITLES FOR INDIVIDUALS LISTED ON FORM 990

The more detailed breakdowns of compensation required on the Core Form and Schedule J are a positive step, but ERI is very concerned about the loss of detail on job titles.

Although the matrix in Part II, Section A, 1a (B) is useful when multiple jobs are held by certain officers, directors, trustees, key employees and others, ERI now includes the detailed job titles provided on the current forms in our Nonprofit Comparables Assessor. The job title information is critical to providing the appropriate information for salary comparisons needed by the sector. The data are not only needed by federal and state charity regulators, but also used by other stakeholders who are concerned about executive compensation -- the media, Congressional committees, the charity watchdogs, and even foundations and individual donors. And of course, charities wishing to be compliant with regulations need the data to be able to document their compensation decisions.

The revised Core Form requires only a checkmark for a column labeled "Other" for all titles other than "CEO or Executive Director" or "CFO or Treasurer." This means that much detail on comparable salaries for different types of jobs will no longer be available. Even more serious, no information on job titles is required for Schedule J. These changes will seriously limit the major source of data for ability to compare salaries for job titles other than CEO and CFO in the nonprofit sector, information that is necessary for regulatory compliance and for improved transparency and accountability in the sector.

ERI Recommendations:

- 1) Continue to require the job titles for Key Employees in addition to CEO/ED and CFO/Treasurer for Part II, Section A.**
- 2) Add a column for Job Title on Schedule J, Line 1.**

USE of National Taxonomy of Exempt Entities (NTEE) Codes

The proposed Core Form (Line 2 and Part IX) includes blank fields for the use of an IRS activity code for each significant activity, but there

is no information on what this coding system would be.

The current coding system used by IRS for nonprofits is the NTEE, a system developed by nonprofit researchers and practitioners and in use by the sector since the 1980s. The IRS started its use of the NTEE in 1999, to replace a system of activity codes that had been developed over time by IRS, but which did not meet IRS needs.

The appropriate NTEE code for an organization is selected based on the organization purpose, rather than its activities. Coding organizations based on their purpose is still very important for analysis and for identifying different types of organizations and the NTEE coding should be maintained. In fact, e-filing brings the opportunity to have the organizations self-code using a key word search that will allow them to choose the most appropriate NTEE code. Because the organizations themselves have the best knowledge of their purpose and activities and the most interest in coding themselves correctly, adding this to the form can greatly improve accuracy.

A system that will code activities would also be valuable for IRS and other data users, including the members of the public who want to find out which organizations provide the services they wish to support. Rather than create a new activities coding system in isolation, we think IRS should work with those who have been involved in the design, maintenance, and use of nonprofit coding systems to help develop a system that meets IRS as well as other stakeholder needs. Again, e-filing brings the opportunity to increase the accuracy of self-coding with key word searches.

ERI would welcome the opportunity to work with IRS, Independent Sector, the Urban Institute's National Center for Charitable Statistics, and other groups to help develop a nonprofit activity classification system that provides the data needed for research and analysis by all stakeholders.

ERI Recommendations:

- 1) Add a place for NTEE code in Part I, Line 1. Organizations should be able to access a web-based list of codes and descriptions to ensure accurate coding.**
- 2) Work with nonprofit practitioners, researchers, and data users to develop a nonprofit activities coding system that will meet stakeholder needs.**

ELECTRONIC FILING OF FORMS 990

The IRS has regulatory responsibility for tax-exempt organizations, which is very different from the revenue-collecting responsibility it has over other taxpayers. The primary purpose of Form 990 is to collect information on the programs and activities of exempt organizations to ensure that they are operating in accordance with their stated exempt purpose and are not violating the rules and regulations governing their tax-exempt status.

Form 990 is unique for several reasons:

- It is the only source of comparable information on all tax-exempt organizations.
- It is public information and often used to meet the information needs of the public.
- Both state regulators and the IRS use the data. Most states requiring registration of charities use Form 990 information to meet their needs.
- The charities themselves use the information to self-regulate and ensure compliance with IRS regulations.

Electronic filing of Forms 990 will result in quicker and more efficient, consistent, and accurate return preparation. The most common

mistakes on forms will disappear – the form cannot be transmitted with an incorrect Employer Identification Number or organization name, and it must be signed and complete. And best of all, the data will already be in electronic format, allowing regulators to work on regulation rather than administration and database creation.

A provision in a statute currently prevents IRS from requiring most nonprofits to e-file. When this is changed by Congress, the barriers for e-filing will be greatly lessened. One way to speed implementation would be to require e-filing of the actual return if an organization requests an extension. About 70 percent of all charities file late each year. If filers who requested extensions were required to file their full returns electronically, the processing time and expense of a paper return would be eliminated, and the information available to IRS, the public, and other data users would be more timely and accurate. And electronic filing would be at the 70 percent level immediately.

ERI Recommendation:

Require organizations to file Form 990 electronically if they are granted an extension of the normal filing deadline.

We hope these comments will be useful in developing a revised Form 990 that will improve the transparency and accountability of the nonprofit sector. We thank you for the opportunity to comment on these issues.

Sincerely,

David J. Thomsen, Founding Director and Linda M. Lampkin, Director
of Research

ERI Economic Research Institute

1725 I Street, NW Suite 300

From: [Weiner, Bennett](#)
To: [*TE/GE-EO-F990-Revision;](#)
CC:
Subject: BBB Wise Giving Alliance - Comments on Form 990 Redesign
Date: Thursday, September 13, 2007 4:38:06 PM
Attachments: [image001.gif](#)
[BBB Wise Giving Alliance - Comments on Form 990 Redesign.pdf](#)
[image002.gif](#)

Attached are comments about the redesign of the IRS Form 990. Thank you for the opportunity to submit this.

[Bennett Weiner](#) | *Chief Operating Officer*

Tel: 703-247-9323

Fax: 703-525-8277

Email: _____

www.give.org

BBB Wise Giving Alliance
4200 Wilson Boulevard, Suite 800
Arlington, VA 22203

SM

Give with Confidence.

When you see this seal on a charity's website, direct mail appeal, or other publications, you can be sure that the charity meets the Alliance's rigorous [Standards for Charity Accountability](#). For more information about the Charity Seal program and for a current list of seal participants, visit www.give.org.



BBB Wise Giving Alliance

September 13, 2007

Lois G. Lerner
Director of the Exempt Organizations Division of the IRS

Ronald J. Schultz
Senior Technical Advisor to the Commissioner of TE/GE

Theresa Pattara
Project Manager, TE/GE Division

Internal Revenue Service
Form 990 Redesign, SE:T:EO
1111 Constitution Avenue, NW
Washington, DC 20224

Re: **COMMENTS ON PROPOSED REDESIGN OF FORM 990**

Dear Ms. Lerner, Mr. Schultz, and Ms. Pattara:

We are writing to provide comments regarding the redesigned Form 990 package proposed on June 14, 2007. This is an important project, and we applaud the Service's thoughtfulness and care in putting together such a significant draft redesign.

It is our understanding that the Service's objectives in the redesign of the Form 990 are several: to increase tax compliance; to decrease the burden for filing organizations; and to increase those organizations' transparency. It is that third objective, as it applies to publicly soliciting organizations, that is most consonant with the mission and programs of the *Better Business Bureau Wise Giving Alliance*. Our comments therefore focus on aspects of the draft Form 990 that, from our perspective and experience, we believe most vital in ensuring that useful and accurate information is provided to the donating public.

This letter generally centers on the new first page—labeled Part I, Summary—of the Core Form. Our comments and suggestions are in three principal sections:

- A description of the Alliance, and, as explained further in the Appendix, how the Alliance both uses the Form 990 in its work and views the Form 990 as a public document
- Our comments on the Summary page and related portions of the Core Form and Schedules
- Additional comments on the draft

Douglas Bauer - Chair
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Ernest B. Gutierrez, Jr.
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David E. Ormstedt
Wiggin & Dana

Joseph R. Reynolds
Williams Group

The name Better Business
Bureau is a registered service
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I. WHO WE ARE AND HOW WE VIEW THE FORM 990

A. About the Alliance

The BBB Wise Giving Alliance (the Alliance) helps donors make informed giving decisions and advances high standards of conduct among organizations that solicit contributions from the public. The Alliance produces in-depth evaluative reports on national charities based on comprehensive *Standards for Charity Accountability* and publishes a quarterly magazine, the *Better Business Bureau Wise Giving Guide*. These reports are on publicly soliciting organizations (and thus not on private foundations) that are tax exempt under section 501(c)(3) of the Internal Revenue Code and on other organizations conducting charitable solicitations. The Alliance does not rank charities but rather seeks to assist donors in making informed judgments about charities soliciting their support. We do not charge charities for the accountability evaluations we complete and our reports are free to the public.

The standards were developed in an open process that involved both the public and the charitable community. These voluntary standards go beyond the requirements of local, state, and federal laws and regulations by recommending ethical practices to ensure public confidence and to encourage giving.

B. The Alliance's Use of the Form 990

As described in detail in the Appendix, the Alliance views the Form 990 as an important, but usually supplementary, source of various kinds of information about the charities on which we prepare reports. For financial information, we prefer, when possible, to rely on audited financial statements, which are prepared in accordance with Generally Accepted Accounting Principles.

II. COMMENTS ON PROPOSED SUMMARY (Part I, Page 1)

A. Major Concerns

Proposed ratios – The inclusion of ratios on the Summary page, without proper context, is not useful, in our view. More critically, two of the proposed ratios, fundraising expenses as a percentage of contributions (line 19b) and total expenses as a percentage of net assets (line 24b) cannot produce accurate results.

Compensation focus – The emphasis on compensation disclosures (line 6) and the metrics used to represent the role of compensation in the organization’s finances (lines 8a and 8b) provide little meaningful or valid information about how the organization is spending its resources.

Program descriptions – An organization’s services are surely the most important information about it, but the scant space allowed for describing major program services, in contrast to that devoted to numbers, suggests that numerical matters count most.

Attachment option – Additional information augmenting a properly filled-out line on any page of the draft form could be helpful for donors and other users. Attachments such as audited financial statements and other exhibits should be permitted, to give organizations an opportunity to include explanations and supplementary information.

We expand on these points below.

1. Proposed ratios

Fund raising expense ratio (Line 19b) – As structured, with fundraising expense set only against “Contributions and grants,” this ratio does not capture all the income that can legitimately be attributed to an organization’s fundraising efforts.

In short, the reporting of fundraising expenses and the income attributable to those efforts varies so widely from one organization to another that there is no practical way for the IRS to produce a valid ratio on the Form 990.

For example, a sound fundraising ratio also would include, as income related to fundraising, the net income from fundraising events included in “Other revenue” (Line 15). Membership dues (Line 13) might also be a related contribution for charities – a number of charities raising funds prefer to call their donors “members,” and the only benefit that donors might receive is an occasional newsletter update announcing the group’s latest efforts.

Including membership dues for all organizations presents potential problems, however, since in some cases membership dues might entail significant membership benefits that negate fundraising characterization. As our comments suggest, determining whether dues and other categories of income besides

“Contributions and grants” are related to fundraising expenses requires a scrutiny of individual situations which we understand is beyond the intention of the IRS.

An additional factor that may influence fundraising analysis is joint cost allocation (for example, when a charity conducts public education/advocacy activities in conjunction with its direct mail fundraising appeals). It is our understanding that this information was inadvertently omitted from the draft Form 990. We urge the IRS to once again include it in the Core Form. The Alliance has seen instances in which a charity does not follow GAAP guidance in this area and attempts inappropriately to reduce the amount it reports as fundraising expenses.

The BBB Wise Giving Alliance is in a position to make individual assessments of charities, taking into account not only the points mentioned above but seeking out additional materials to verify if a charity has accurately identified its fundraising expense.

In addition, the Alliance considers extenuating circumstances that may provide evidence that a charity’s use of funds is reasonable even though the charity’s expenditures do not meet the financial measures cited in our standards. Examples include: the higher administrative and fundraising costs of a newly created organization, a stigma associated with a cause, or events beyond an organization’s control (such as natural disasters).

Given the complexity of analysis, we believe the proposed generic ratio in Line 19b simply cannot accurately capture the relationship between fundraising efforts and their results.

We urge removal of Line 19b.

Total expenses/Net assets ratio (Line 24b) – If the intention of this ratio is to indicate how much an organization has spent in one fiscal year in relation to its total available resources, that intention is not met. As the proposed ratio is structured, with total expenses set against undifferentiated “Net assets or fund balances,” apples mix with oranges. “Net assets” could include temporarily and/or permanently restricted assets. Comparing figures that are not comparable, as in this ratio, cannot produce an accurate or useful figure.

The Alliance itself uses an expenses/assets ratio: one of its standards calls for a charity to avoid accumulating funds that could be used for current program

activities. To meet this standard, the charity's unrestricted net assets available for use should not be more than three times the size of the past year's expenses or three times the size of the current year's budget, whichever is higher. As the language of the standard indicates, there are significant differences in our calculation of the ratio, notably the emphasis on "unrestricted net assets available for use." Nevertheless, we do not recommend adoption of our approach to this ratio on a tax information return since it does not provide the charity with an opportunity to explain the circumstances of its financial position.

We urge removal of Line 24b.

2. Compensation Focus

Lines 6, 8a and 8b require disclosures about compensation and a ratio of compensation to program service expenses. We believe that this required information, with its unwarranted emphasis on compensation, provides no useful information to donors and, more important, promotes misleading comparisons among charities.

Line 6, using the arbitrary figure of \$100,000, essentially indicates only how large a charity is, since many national charities have compensation in excess of that figure. The point of the question is unclear, but the likely implication for the donating public will be that the more individuals listed, the more suspect the organization.

Line 8b, the ratio of compensation to program service expense, is not a meaningful or accurate indication of how an organization is spending its resources. The proposed ratio is likely to be high for charities – whether they be health services, educational activities, or advocacy – that deliver their programs through paid staff. Charities involved with significant relief services, such as distributing donated goods, would probably have the lowest salary ratios, not because of the size of executive pay, but because the cumulative value of donated cash and in-kind goods usually far exceeds any of the expense categories.

The ratio also implicitly conveys a message that less is better when, in fact that is not often the case. It is likely that the public will interpret a lower ratio positively, as showing a charity devoting more of its resources to non-salary expenses. Such an interpretation might only strengthen the myth that the less a charity pays its staff, the more reliable the organization.

We urge removal of Lines 6, 8a and 8b.

3. Program Information

Though presumably members of the donating public come to the Form 990 because of their interest in an organization's program, the Page 1 Summary gives little indication of actual activities. Activity codes will be a mystery to most readers, who might not realize that much more space is made available to the filer on page 10 of the Core Form.

Dropping the lines we cite in section A and B above as providing unhelpful or inaccurate information (Lines 6, 8a, 8b, 19b and 24b, as well as some additional ones noted below) would make space available for inserting descriptive program material on Page 1. Significantly, this descriptive program information would tell donors and other readers how funds are being used in a way that numbers cannot.

We urge expansion of the space available for program descriptions on Page 1.

4. Attachment Option

As noted on page 3 of this letter, additional information augmenting a properly filled-out line on any page of the draft form could be helpful for donors and other users. For example: the option of providing attachments would give organizations an opportunity to include explanations regarding their cited financial ratios, if the IRS decides to include these ratios in the Form 990. Attachments could include audited financial statements and other items the charity deems appropriate.

B. Additional Comments on the Summary Page

While we recognize the IRS must collect financial information in a form tailored to its own needs, we hope it will consider using Generally Accepted Accounting Principles (GAAP) reporting. Even with the reconciliation form, the existence of two sets of finances, those presented in the Form 990 and in audited financial statements, can be confusing to donors. Regardless of whether this consideration is adopted, not only in the Summary but also in the Core Form itself, the Service should ask:

* Does the organization prepare financial statements in accordance with Generally Accepted Accounting Principles?

September 13, 2007
Internal Revenue Service
page 7

This question could then be followed by what is now the second question in Part III, line 8:

Indicate whether an independent accountant provides any of the following services:

Compilation ___ Review ___ Audit ___

The proposed redesign of Form 990 provides an excellent opportunity to create additional clarity and disclosure by allowing organizations that file a national-headquarters return and a separate group return for local, state or regional affiliates to consolidate into one organization-wide Form 990. Unless the practice of not allowing the entities to consolidate is changed, there will be continuing confusion among members of the public and media who seek to review national charity finances. In addition, if national charities are required to continue to submit separate 990s for the headquarters office and a group return for affiliates, the proposed ratios in the Summary page will further confuse readers.

One stylistic note: We recommend that each line on the Form have a unique identification (such as IV.1 for line 1 of part IV) and that all the lines of each Schedule be numbered sequentially (such as D.34). This will clarify references in the lengthy Instructions, and facilitate data collection and analysis.

Line 1. We have several comments about this line. First, the question about the organization's mission is not drawn from another part of Form 990. It is unclear what the legal effect of the line is. Second, there may be confusion about the term "mission." Some filers may interpret this to mean that nonprofits are now required to prepare a "mission statement," which could entail additional work for them. If on the other hand, the intention is to request the organization's purpose as cited in governing instruments such as the articles of incorporation and/or bylaws, then the question should be restated for clarity. Third, as organizational missions or purposes are usually stated in broad terms, they often give little information about the organization's actual work. We believe that omitting this item and providing more room to describe the organization's activities will provide greater assistance to the public.

Line 2: See our previous comments about program information on page 6.

Line 3. We recommend that this be revised to state: "Enter the number of voting members of the governing body..." In turn, we recommend that the corresponding line (Part III, line 1a) be changed similarly.

The Form, the Glossary, and the Instructions use three different concepts that can easily be confused. This question appropriately focuses on the voting members of the board when it asks for the number (although not the identities) of “members of the governing body.” The Glossary defines “governing body” as follows:

Group of persons having ultimate authority over and responsibility for the governance of the organization under the organization’s governing documents or applicable state law (e.g., the board of directors of a corporation, the co-trustees of a trust) in a capacity other than as owners, shareholders, or members of the organization.

By contrast, Part II (Compensation) asks for a list of all officers, directors, trustees, and key employees, a mix that extends beyond that group of persons responsible for the governance of the organization. Rather confusingly, though, the Glossary defines “directors or trustees” as follows:

Persons who are members of the organization’s *governing body*, regardless of whether they have voting power, and individuals or institutions who serve as trustees or co-trustees of the organization under state law.

Finally, the Instructions to Part II (but not the Glossary) explain: “Members of advisory boards are not considered directors or trustees.” The current Form 990 limits the definition of director or trustee to someone with voting power; the Glossary should do the same.

It is critical that there be a public list of those responsible for governing the organization so that all fiduciaries may appreciate their legal duties, and so that regulators, the organization’s constituents (including members, if any), and the general public know whom to hold accountable. Moreover, Part II.A does not seem to require the organization to set forth the names in each category together. Section A of Part II should be divided into the following four categories, with some signal to identify those who serve in more than one capacity:

- a) Governing board members – expressly limited to persons with voting power.
- b) Persons given the title of director or trustee, but lacking voting power.
- c) Officers.
- d) Key employees.

Line 4. In asking for the number of individual board members, the Service is seeking to collect information for tax-administration purposes, while readers might be looking for something different. In Part III (Governance), from which lines 3 and 4 are drawn, it could be more useful to separately ask (making sure that the definition is limited to board members with voting rights) for the:

* Number of governing board members who receive compensation.

** Number of governing board members who are related by blood or marriage to each other and/or to paid staff.

Lines 6 and 8a. See our previous comments on Compensation Focus on page 5.

Lines 17, 18 and 19a. We believe that without context, these percentages will be used as comparative measures that essentially are not helpful. The Alliance uses percentages, but as thresholds for determining whether a particular organization meets a stated standard.

Lines 25 and 26. We believe that the space devoted to these lines about gaming and other fundraising events would be more usefully used for describing program activities, as previously stated.

III. ADDITIONAL COMMENTS

We provide here additional comments on those portions of the Form 990, Schedules, and Instructions that we have had time to review. No inference should be drawn about our views on portions of the project on which we do not comment.

Part I, line 15 and Part IV, lines 3 through 12. The phrase “other revenue” in Part I, line 15 should be replaced with a different phrase (such as “remaining revenue”), because of the specific meanings of “other” in the revenue presentation in Part IV.

Part II, Section B, line 5. We believe that some of the questions about business relationships are overly broad and should be clarified or narrowed. If not, this could lead to errors in completing the form.

Part II, Heading. Where the phrase “*highly* compensated” is used, it can be inflammatory and misleading (highly compared to whom?). It is also unnecessary, since “highest compensated” is used elsewhere for the same purpose.

Part III, line 2. Line 77 of the current Form 990 asks: "Were any changes made in the organizing or governing documents but not reported to the IRS? If 'Yes,' attach a conformed copy of the changes." The proposed form replaces line 77 with line 2 of Part III, which asks: "Did the organization make any significant changes to its organizing or governing documents? If 'Yes', briefly describe these changes." The draft Instructions to this line read: "The organization must report only significant changes to its documents. For example, do not report changes in the registered address or changes that do not significantly affect the organization's mission or governance or the organization's control, use or distribution of assets." Specifically, the draft Instructions require the organization to report any change:

- in the number, composition or duties of the governing body;
- in the number, composition or duties of the officers;
- in the distribution of assets upon dissolution;
- to the policies regarding compensation of officers, directors, trustees, or key employees;
- to the policies regarding conflict of interest, whistleblower, or document retention and destruction; or,
- to the composition or procedures of the audit committee.

Note, importantly, the reference in these last three items to policies or procedures of the organization, not just to the articles and bylaws (or other governing document). This draft list is too broad for a disclosure document. For example, whether the bylaws require an organization to have audit committee is an appropriate question for the Form 990, but the contents of that committee's charter should be left to an examination.

One can easily imagine situations where the organization is unsure whether to report a particular change on the Form 990. To avoid this problem and to ensure complete disclosure, the revised Form 990 also should continue to require organizations to attach conformed copies of their amended governing documents.

Part III, line 3b. Asking how many conflict-of-interest transactions were reviewed by the organization misses the right question. Most boards will have some related party transactions and not all of them are bad, but entering a high number (or any number) provides no useful information and will likely be viewed by readers as a negative. Also, what does "review" mean? Finally, the board (or a committee of the board), not the "organization," should conduct the review.

Separately and more fundamentally, a prior line could be added asking for the number of board meetings held and the average attendance (as the Alliance requests).

Part III, line 8. It is not enough to ask whether a compilation, review, or audit was performed. It should also be asked, particularly in the case of an audit, whether the board discussed it and whether the audit opinion is unqualified, qualified, disclaimed, or adverse.

Part III, line 10. This line should be rephrased to ask whether the governing board (or a committee of the board) was supplied with the Form 990 before it was filed.

Part III, line 11. The n/a box will cause confusion. Some readers (and preparers who do not go to the Instructions when they think something is intuitive) will think it means “not applicable.” Others will think it means “not available.” Actually, the Instructions confusingly say to check the “not applicable” box if the listed document is not made available. What about organizations that, for example, do not file a Form 990-T? . Checking the box seems to indicate that they withhold the 990-T when, in fact, they did not need to file one at all. Finally, the list should include the application for exemption (Form 1023 or Form 1024).

Part V, Functional Expense Statement. As noted on page 3, the proposed Form 990, apparently through an oversight, no longer provides a section that identifies joint cost allocation. The Instructions (at page 29) under Column D (Combined Educational Campaign and Fundraising Solicitations) end with “SOP 98-2. See Glossary” (but note that nothing on this appears in the draft Glossary). We urge the Service to ensure that this information about joint cost allocation appears on the Form; it can be an important consideration for those seeking to assess an organization’s fundraising expenses.

Part VI, lines 28, 29 and 30. By making no changes to the lines asking for unrestricted net assets, temporarily restricted net assets, and permanently restricted net assets, the draft perpetuates a deficiency that has existed in the form for years. For the entries to have meaning, there should be a breakdown by asset class, as GAAP requires.

Schedule G, Part I, line 1a. There should be boxes for “own website” and “other’s website(s).”

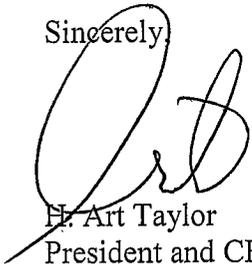
September 13, 2007
Internal Revenue Service
page 12

Schedule G, Part I, line 1b. In connection with fundraising conducted in-house, the Instructions should clarify that this question is limited to contracts with professional fundraisers, not contracts with such vendors as graphic designers and printers.

The proposed changes in the IRS Form 990 will require radical efforts and investment of resources by the filing organizations. We believe that some of those changes will not assist the donating public, as we have pointed out. Given the impact this project will have on information about the nonprofit sector, we urge the Service to delay finalization of the draft Form, Schedules and Instructions by at least a year. It is worth taking the time to get the design right. If a delay in finalization is not possible, we ask that the Service consider how the implementation process might be modified to enable the organizations for which the changeover will be the greatest hardship to file alternate forms, such as the 990-EZ, for an additional year.

If you have any questions about these comments, please contact me at 703-247-9334 or ataylor@cbbb.bbb.org. Thank you for considering our views.

Sincerely,



Art Taylor
President and CEO

Appendix: How the BBB Wise Giving Alliance Uses Form 990

APPENDIX

How the BBB Wise Giving Alliance Uses Form 990

The BBB Wise Giving Alliance, in applying its comprehensive standards, uses the IRS Form 990 for more than financial information. (To review the complete text of our *20 Standards for Charity Accountability*, go to www.give.org.) These uses include but are not limited to the following:

- Standard 1 requires a “board of directors that provides adequate oversight of the charity’s operations and its staff.” In applying this standard, we look for confirmation from the charity that its board of directors (and/or a board committee), among other oversight activities, annually receives the charity’s Form 990.
- Standard 2 requires a “board of directors with a minimum of five voting members.” The board roster in the Form 990 can help confirm if a charity meets this standard, but we routinely ask the charity to submit information on its board size as well.
- Standard 4 requires: “Not more than one or 10% (whichever is greater) directly or indirectly compensated person(s) serving as voting member(s) of the board. Compensated members shall not serve as the board’s chair or treasurer.” We will not only review the Form 990 and notes to the charity’s financial statements, but we will also ask the charity to submit information about compensation on a form we provide.
- Standard 5 requires that there be “no transaction(s) in which any board or staff members have material conflicting interests with the charity resulting from any relationship or business affiliation.” In addition to reviewing the Form 990 and notes to the charity’s financial statements, we provide a form for the charity to use in setting out information about related-party transactions.
- Standard 17 requires the charity to “include on any charity websites that solicit contributions, the same information that is recommended for annual reports, as well as the mailing address of the charity and electronic access to its most recent IRS Form 990.” Unless the charity is new (and has not yet filed) or is not required to file, in applying this standard, we state, in applying this standard, that a charity whose website solicits contributions should also provide electronic access to its most recent Form 990 (or IRS Form 990-EZ), either by an appropriately labeled PDF file or a properly labeled link to GuideStar.org.

For financial matters, we generally prefer to use amounts reported in audited financial statements, when available, to relying on the Form 990. As a threshold matter –

- Standard 11 requires the charity to “make available to all, on request, complete annual financial statements prepared in accordance with generally accepted accounting principles.” Similar to the approach taken by many state regulators, we require organizations whose annual gross income exceeds \$250,000 to provide audit reports in accordance with generally accepted auditing standards. For charities whose annual gross income is less than \$250,000, a CPA review will suffice to meet this standard. For charities whose annual gross income is less than \$100,000, an internally produced, complete financial statement, or, failing that, a Form 990 or Form 990-EZ will suffice.
- In ascertaining whether a charity meets Standard 8 (program expense ratio), Standard 9 (fundraising expense ratio), and Standard 10 (available unrestricted net asset / expense ratio), we will use a charity’s Form 990 only if the charity does not have audited or reviewed financial statements. Our Implementation Guide to the Standards identifies several major differences between GAAP/GAAS and the Form 990. First, in some cases, the audit report combines the finances of the subject charity with the finances of entities closely affiliated with it through financial and governance relationships, while the Service may require each of these different entities to file a separate Form 990. Second, the audit report may include the value of donated services and the use of facilities as both a revenue and expense item, while the Form 990 does not include such revenues/expenses. Third, the audit report may include certain note disclosures relevant to the application of our standards that would not appear in the Form 990. As a separate matter, the revenue section of a charity audit report recognizes unrealized gains and losses on investments, while the Form 990 does not.
- Even though for financial information we rely to the extent possible on audited financial statements, we believe it is important that charities file complete and accurate Forms 990. Notably, Standard 13 requires the charity to “accurately report the charity’s expenses, including any joint cost allocations, in its financial statements.” In applying this standard, we explain: “If the charity’s financial statements and/or IRS Form 990 report no fund raising or administrative expenses... the charity usually will not meet this standard.” Nor will the charity meet this standard if its financial

statements and/or Form 990 show that the charity has inappropriately reduced reported fund raising costs, such as by inappropriately allocating certain expenses in the audit report or by displaying contributions “net” of these expenses.

- In addition, Standard 13 addresses page two of the current Form 990, which helps the Alliance identify charities that use joint cost allocations. This arises when a charity has a combined education and fund raising activity (for example, a direct mail fund raising appeal that also includes a call to action, such as a request to sign a petition or a recommendation to see a doctor if disease warning signs exist). Under certain circumstances of this type, the Alliance will question whether the charity has under-allocated its fund raising expenses.

From: [Maul, Thomas](#)
To: [*TE/GE-EO-F990-Revision;](#)
CC:
Subject: Form 990 revisions
Date: Thursday, September 13, 2007 4:04:04 PM
Attachments: [IFAW Comments on Revised Form 990.pdf](#)

Kindly accept the attachment as our comments on the proposed changes to the Form 990.

<<IFAW Comments on Revised Form 990.pdf>>

Kind regards,

Thom

Thomas M. Maul, CPA
International Fund for Animal Welfare
Phone: 508 744 2131
Fax: 508 744 2149

Disclaimer:

The International Fund for Animal Welfare works to improve the welfare of wild and domestic animals throughout the world by reducing commercial exploitation of animals, protecting wildlife habitats, and assisting animals in distress. IFAW seeks to motivate the public to prevent cruelty to animals and to promote animal welfare and conservation policies that advance the well-being of both animals and people.

This transmission is intended only for use by the addressee(s) named herein and may contain information that is proprietary, confidential and/or legally privileged.



International Fund for Animal Welfare

12 September 2007

Internal Revenue Service
Form 990 Redesign, SE:TO:EO
1111 Constitution Avenue, NW
Washington, DC 20224

Dear Sir or Madam,

Thank you for providing us the opportunity to comment on the proposed changes to the Form 990. We recognize that this tax return is an important source of information to the IRS, but also a powerful tool for the public-at-large to use when researching an organization's mission, activities and accomplishments (both financial and non-financial) during the reported year.

Our organization supports the IRS initiative to revise the Form in order to improve consistency, clarity, and transparency of reporting by tax exempt organizations. The Draft Form 990 includes many significant improvements toward that end. However, we have a few comments/concerns about certain facets of the form as follows:

Comments on the Core Form and Instructions:

Part I, line 8b

For organizations such as ours, which report on a fiscal year basis, this ratio will be computed using salary information on a calendar year basis resulting in a ratio that is not accurate or meaningful.

Part I, lines 11 – 15, 17 – 19 and 24:

The concept of reporting summary of revenues and expenditures appears to provide a useful "snap-shot" of an organization's financial activities over the course of a year. However, inclusion of revenue and expenditure ratios is not appropriate for two reasons: (1) Organizations have no opportunity within the summary section to explain or give context to the ratios (2) Readers may interpret the inclusion of such ratios as the IRS's tacit measure of an organization's performance or efficiency.

Part II, section A, column (A):

We have privacy concerns about disclosure of the city and state of residence of individuals that serve as trustees, officers or other key employees of the organization. We believe it is appropriate to report the organization's address in this section.

Part III, line 3b:

Though we applaud the inclusion of information on corporate governance, we feel this question should be reworded as we do not believe the number of potential conflicts of interest reviewed is a meaningful indicator or measure of the effectiveness of the policy. We believe the question should ask how often and at what level potential conflicts are reviewed?

www.ifaw.org

INTERNATIONAL FUND FOR ANIMAL WELFARE
411 Main Street
Boston, MA 02173-1822
USA
Tel: 508 444 3300
Fax: 508 744 3009

COUNTRIES:

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Germany
Netherlands
Russia
South Africa
United Kingdom

Instructions, page 12, section "Completing all lines":

We believe that prohibiting the attachment of any supplemental forms or schedules to the Form 990 runs contrary to the presumed objective of having organizations provide complete and transparent information about their financial results and activities. We believe attachments and schedules are a meaningful and necessary means of providing supplemental information and/or giving proper context to summary financial information reported within the Form.

Comments on Schedule F:

Though we appreciate that information about activities outside the United States may not be adequate within the current Form 990, we have a number of concerns about the information being requested within this schedule:

Part I, line 1

Our organization, like many others, operates branches in foreign countries which engage in regional activities. In addition we make grants to a variety of organizations that conduct programs in various countries. Our accounting and reporting systems, though fairly sophisticated, are not designed to track financial activities at the level (by country) as requested in Schedule F. Devising and implementing reporting systems that would be required to provide the requested information would be a significant burden to our organization.

Part I, line 2

Though we agree that all grants should be made with appropriate controls, including understanding the identity of a grantee and the intended use of grant funds, we recommend that this question be rephrased to be consistent with that which is asked in Schedule I, Part I, line 1.

Part I, lines 5a, and 5b

Given the number of donors we have (in excess of two million), we believe this request places an unreasonable burden on our organization.

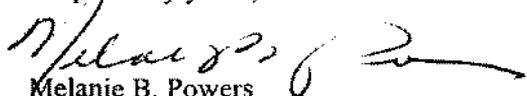
Comments on Schedule J:

Line 1

Though this schedule includes useful instructions and illustrations of what could/should be included within columns (B) – (H), we have two concerns, which when contrasted, seem to give rise to an inconsistency in the data used to arrive at total compensation: (1) it is not clear why legitimate reimbursed business expenses would require disclosure as they do not represent compensation (2) why employer contributions to a qualified pension plan would not be included as such contributions do constitute a form of compensation.

Thank you for giving the above comments and concerns your consideration.

Respectfully yours,


Melanie B. Powers
Chief Financial Officer

From: [Bill Maloney](#)
To: [*TE/GE-EO-F990-Revision;](#)
CC:
Subject: Comments on Form 990 Revision
Date: Thursday, September 13, 2007 3:49:25 PM
Attachments: [image001.jpg](#)

PRRI

An Association Management Company

Professional Relations and Research Institute, Inc.

900 Cummings Center, Suite 221-U n Beverly, MA 01915 n (978) 927-8330 n Fax (978) 524-0461 n www.ppri.com

September 13, 2007

Sent via email to: Form990Revision@irs.gov

To the IRS Form 990 Revision Committee:

We are writing on behalf of Professional Relations & Research Institute, Inc. (PRRI). PRRI was incorporated in Massachusetts in 1946, when it was created as a public relations consulting firm serving professional organizations throughout the country. In the 1950's PRRI's focus turned to the management of professional associations, serving clients in both the medical and engineering professions. In the early 1970's PRRI's focus turned exclusively to management of professional medical organizations.

Today, PRRI is an Association Management Company (AMC) which has 22 clients including 16 national, regional and state not-for-profit professional organizations and 6 of their related medical foundations, primarily within different surgical specialties. We employ 31 individuals who work on a variety of client matters including management, administration, publishing, meeting planning, membership, development, and accounting. Our clients' professional meetings offer continuing medical education credits either as self-accredited ACCME providers or through other accredited agencies. All 31 employees are compensated by PRRI, and none are employed or receive any direct compensation from individual clients.

PRRI appreciates the efforts of the IRS to update the Form 990 and its efforts to increase transparency in non-profit corporate filings. PRRI is registered with the Massachusetts Attorney General's office and our clients who conduct fundraising or development activities are all individually registered with the Attorney General's office and make annual filings in the Commonwealth of Massachusetts.

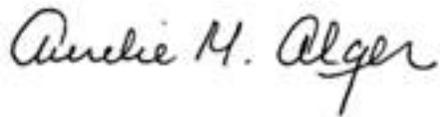
We understand that at times there has been confusion regarding whether an AMC's employees should be listed on an individual client's Form 990. Management fees for PRRI are listed, but all PRRI officers and employees are compensated by PRRI and not the client. We applaud the new form for having dropped instructions regarding listing the management fee as compensation of the AMC representative who works for the individual society. Part II, Section B of the revised Form 990 clearly ensures full disclosure of any relationships between officers, directors and professional members of associations who have relationships with any third party vendors, including AMCs. PRRI agrees that this is a necessary disclosure which helps ensure transparency. We welcome this effort.

As a company which has over 30 staff members, ranging from senior executives to membership and meeting coordinators to receptionists and administrative personnel, PRRI urges the IRS to not make any changes which would require disclosure of an AMC employee's personal salary on the Form 990. PRRI's employees work with a variety of clients and their compensation is based on tenure with PRRI, as well as merit and annual

performance reviews. Their duties on one client are not necessarily the same as their duties on another. The aggregate of the salaries of all employees serving each of our client organizations is presently included in the current Form 990. Reporting an individual employee's salary on a client's Form 990 is misleading and duplicative. PRRI provides appropriate annual reporting on all employee compensation directly to the IRS on an annual basis.

Thank you for your providing us with an opportunity to comment on this proposal.

Sincerely,

A handwritten signature in cursive script that reads "Aurelie M. Alger". The signature is written in black ink and is positioned above the printed name and title.

Aurelie M. Alger, JD
Executive Vice President

From: [Hoskins, Jeff](#)
To: [*TE/GE-EO-F990-Revision;](#)
CC: [Littlejohn, Merrill; Miller, Roxanna; Wilcox, Ron; James, Julie; Capin, Richard; Isaacs, Ken; Amy Bibby \(E-mail\);](#)
Subject: Samaritan's Purse Comments - Form 990 Redesign
Date: Thursday, September 13, 2007 3:12:57 PM
Attachments: [Samaritan's Purse Comments - Form 990 Redesign.pdf](#)

Please see the attached comments from Samaritan's Purse regarding the proposed Form 990 redesign.

Thank you.

<<Samaritan's Purse Comments - Form 990 Redesign.pdf>>

Jeffrey E. Hoskins
Director of Financial Reporting
Samaritan's Purse
P.O. Box 3000
Boone, NC 28607
828-262-1980 x1442
jhoskins@samaritan.org
www.samaritan.org

September 13, 2007

Ms. Lois G. Lerner
Director, Exempt Organizations
Internal Revenue Service
Form 990 Redesign
ATTN: SE:T:EO
1111 Constitution Avenue, NW
Washington, DC 20224

RE: Form 990 Revision Comments

BY ELECTRONIC MAIL TO: Form990Revision@irs.gov

Dear Ms. Lerner:

We have reviewed the revised Form 990 and have the following comments and recommendations:

- 1) **Timing** - The proposed changes are very significant and will increase the administrative burden for our organization. We will also need to implement substantial data collection changes. We believe many organizations will be affected in this way. As such, the implementation date seems too early. We recommend delaying the implementation of the revised form one additional year.
- 2) **Schedule F (Statement of Activities Outside the U.S.)** – The additional disclosure requirements pose serious security threats to our staff working in certain areas. We recommend this schedule not be publicly disclosed, similar to Schedule B, Schedule of Contributors. We also believe the reporting threshold is too low, making the administrative burden too great. We recommend the threshold be at least \$25,000 with an inflationary index for future years.
- 3) **Presentation** – It appears that several fields on the revised form will not accommodate large figures (over 9 digits) very well when the form is printed. Specifically, we noticed this in the Part II 5f table and in Part IV. We are also concerned that there is not much print space for the most significant program service accomplishment narrative in Part IX Line 2. There is also little print room to describe accomplishments in detail as requested in Part IX Lines 3a-3c.

Ms. Lois G. Lerner

September 13, 2007

- 4) **Program Service Revenue** – For Part IV Lines 2 and 13, the instructions say to use business codes from the 990T unrelated business income (UBI) schedule, but the items we would list are not UBI. Are we allowed to use the UBI code and still list the income in column B, Related or Exempt Function Revenue?
- 5) **Activity Codes** – Where do we find the activity codes for Part IX Lines 3a-3c?
- 6) **Schedule I (Supplemental Information on Grants and Other Assistance to Organizations, Governments, and Individuals in the U.S.)** - We believe the reporting threshold is too low, making the administrative burden too great. We recommend the threshold be at least \$25,000 with an inflationary index for future years.
- 7) **Schedule J (Supplemental Compensation Information)** – Since nontaxable expense reimbursements are not compensation, we recommend removing Line 1 column E. We believe including this data as compensation is misleading to the reader, particularly when the column F totals are used for comparison purposes.
- 8) **Schedule D (Supplemental Financial Statements)** – We believe the expansion of disclosures for investments is too administratively burdensome. We recommend only summary financial information for the investment parts of the form.
- 9) **Schedule M (Non-Cash Contributions)** - We believe the reporting threshold is too low, making the administrative burden too great. We recommend the threshold be at least \$25,000 with an inflationary index for future years.

Thank you for considering these recommendations.

Sincerely,



C. Merrill Littlejohn
Vice President Finance

From: [Melissa Allay](#)
To: [*TE/GE-EO-F990-Revision;](#)
CC:
Subject: Comments on Draft Redesigned Form 990.pdf
Date: Thursday, September 13, 2007 3:08:22 PM
Attachments: [Comments on Draft Redesigned Form 990.pdf](#)

Please see attached.

Regards,
Melissa Allay, C.P.A.
Chief Financial Officer
Thomas Associates, Inc.
1300 Sumner Ave.
Cleveland, OH 44115
216-241-7333
216-241-2369 (fax)



September 13, 2007

Internal Revenue Service
Ogden, UT 84201-0027

Re: Comments on Draft Redesigned Form 990

To Whom It May Concern:

We have reviewed the proposed redesign of Form 990 Return of Organization Exempt From Income Tax. The current form is quite onerous and, along, with financial statement reporting requirements, currently imposes a significant financial burden to quite a vast number of non-profit organizations who are struggling to continue as going concerns. The additional schedules and reporting requirements, though some are required only by large non-profit organizations, will increase the costs of compliance and financial reporting significantly. The result is a further erosion of net funds available to expend on the purpose of the individual organization.

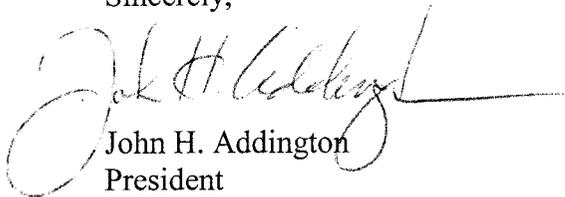
We appreciate the Internal Revenue Service's desire for transparency of costs, full disclosure of compensation practices of senior executives, disclosure of uncertain tax positions, recordkeeping on tax-exempt bonds to verify exempt qualification, loan arrangements between organization leadership and the organization, overvaluing of non-cash contributions received resulting in inflated charitable deductions from the donor, activities outside of the United States, etc.

However, most of the new reporting requirements result in the involuntary drafting of the non-profit organization to assist the IRS in policing activities outside of the organization's tax-exempt purpose. It is inconsistent with the current reporting requirements that attempt to ensure as much of the contributions received are used for the tax-exempt purpose. The smaller organizations already spend a significant amount of the contributions received to pay independent auditors, legal counsel, and tax preparers as well necessitating hiring of accounting and reporting staff. Though we understand all businesses must utilize these professionals in order to operate a well run business, the reality for non-profits is a diversion of contributions from the purpose of the organization. Of course, a normal amount of expense for these areas is necessary and welcome, but to impose more expense on the organization merely to help the IRS police charitable deductions of contributors, record keep for tax exempt bonds, and further disclose compensation arrangements of the executives more than already stated on the current form, is an attempt to burden tax-exempt organizations and begin to impose reporting requirements much the same as for profit companies.

Non-profit organizations are created for purposes of working for the common good, which is quite different than the purposes for profit companies are created. To impose these additional costs for reporting and compliance is a disguised tax on the non-profit organization which, in order to maintain tax-exempt status, must already adhere to significant regulations.

If these disclosures, reporting requirements and additional record keeping items are needed, they should be levied only upon organizations of significant asset size or contribution income levels for which the additional cost is a much lower percentage of their operating budget. Smaller organizations are already struggling to survive in order to maintain their mission to provide services for the quality of life and business rather than just to accumulate wealth for stockholders.

Sincerely,

A handwritten signature in cursive script, appearing to read "John H. Addington", with a long horizontal flourish extending to the right.

John H. Addington
President

From: [Cheng, Sam](#)
To: [*TE/GE-EO-F990-Revision;](#)
CC: [Speirits, Kevin; Crossen, Jane;](#)
Subject: Response to IRS Form 990 Revision
Date: Thursday, September 13, 2007 3:01:16 PM
Attachments: [IRS Response Letter - Form 990.doc](#)
[image001.gif](#)

Dear Sir or Madam:

Please consider the attached response regarding the Form 990 Revision.

Thank you,



Sam Cheng

Controller

P: 972-855-1610 | F: 972-855-4302

5005 LBJ Freeway, Suite 250 | Dallas, TX 75244

Helpline 1-800 I'M AWARE | www.komen.org

Our vision: a world without breast cancer.

Lights, Camera, Action! Take a peek at our [News for the Cure™](#) videos.



Headquarters
5005 LBJ Freeway, Suite 250, Dallas, TX 75244
972-855-1600, Helpline 1-800 I'M AWARE
www.komen.org

September 10, 2007

Form 990 Redesign
Attn: SE:T:EO
1111 Constitution Ave., N.W.
Washington, DC 20224

Dear Sir or Madam,

I am writing in reference to the Internal Revenue Service (IRS) request for comments on the proposed redesign of Form 990. Susan G. Komen for the Cure has specific concerns related to the 1) excluding group filing and 2) timing.

Our Story

Born in a promise between two sisters - Nancy Brinker to her sister, Susan G. Komen, who died from breast cancer at the age of 36 - Susan G. Komen for the Cure is the world's largest and most progressive grassroots network fighting to end breast cancer forever. Our Promise is to save lives and end breast cancer forever by empowering people, ensuring quality care for all and energizing science to find the cures.

To fulfill our promise to end breast cancer forever, Susan G. Komen for the Cure will invest more than \$1 billion over the next decade on breast health care and treatment, especially for underserved women, and on research to discover the causes of breast cancer and, ultimately, its cures.

Susan G. Komen for the Cure has 122 domestic affiliates, in addition to the Dallas based national headquarters, which are working on this promise. The affiliates range in size, both in available resources and revenue generation. The organization files two 990s: one for the parent organization and one group return that includes the transactions and supporting data for all 122 domestic affiliates.

The Affiliates operate independent of headquarters including their accounting and record-keeping functions, and are largely driven by volunteers. While they do operate as independent organizations, in order to maintain consistency and ensure accuracy Komen headquarters serves as the accounting resource and centralization for year-end financial statement and tax reporting, reviewing, auditing and compiling Affiliate to complete the filing of Form 990. We believe that this provides not only better quality information, but also allows for a more accurate and complete repository of financial and governance data for our constituents.

Three simple steps to early detection are regular mammograms, clinical exams and breast self-exams.

Redesigned form 990

The stated purposes of the 990 redesign are to 1) enhance transparency 2) promote compliance and 3) minimize the burden of filing organizations. Komen would like to comment on 2 issues that we believe keep the form from meeting its' goals.

Exclusion of Group Filing

Current practice and 990 forms allow for the filing of a group 990. The group return allows Komen to present the results of 122 separate organizations in a clear and concise manner. Many charity watchdog groups utilize this filing to evaluate Komen and understand our operations and contribution to society. If group filings are no longer allowed, it will be much more difficult and burdensome to all parties in evaluating the organization. In addition, transparency will be difficult to achieve because some of the affiliate organizations will not meet the minimum revenue requirements for filing and therefore an organization-wide analysis will be difficult. The public may be confused as to which organization's information they are reviewing and frustrated in trying to find the appropriate information.

Secondly, filing individual returns will be more costly for the organization due to current reporting capabilities. Many of our affiliate processes are manual in nature and are reviewed and audited by headquarters staff during the year-end consolidation process. To continue to ensure accuracy and consistency among the different organizations we would be required to file extensions for all 122 Affiliate organizations increasing the organizations burden in regards to record-keeping and costs.

Timing of Implementation

Komen agrees that the new detail of information to be provided does increase transparency for the public. However due to the structure of many grassroots non-profit organizations as well as the heavy reliance on volunteers, it will be quite burdensome, if not impossible to communicate, train, and implement policies and procedures for the Affiliate network in order to achieve a reporting structure that adequately captures the detailed data on a proactive basis. Given the current timeline, these requirements will require a great deal of additional work on the back end - increasing cost and decreasing efficiencies in operations, requiring the organization to spend increased amounts of time on administrative duties rather than working towards increasing the dollars available to increase mission initiatives in communities across the country. A longer more thoughtful implementation timeline would place less strain on the system and ensure more accurate reporting.

Sincerely,

Samuel Cheng
Controller

Susan G. Komen for the Cure

From: [Vicky Benson](#)
To: [*TE/GE-EO-F990-Revision;](#)
CC:
Subject: Comment on Form 990 Revisions
Date: Thursday, September 13, 2007 2:16:33 PM
Attachments: [Comments to IRS Form 990 Revision.doc](#)

Thank you for the opportunity to comment on the proposed changes to Form 990.

Attached is a 4-page comment in MS Word format. (It is also copied below in case you can't open it.)

Vicky R. Benson, Vice-president
World Missionary Press, Inc.
P.O. Box 120
New Paris, IN 46553

Direct line: (574) 831-2762
Plant: (574) 831-2111 (Ext. 232)
Fax: (574) 831-2161
www.wmpress.org

Comments to the IRS on Form 990 Revision

20XX Instructions for Form 990

It is now MUCH harder to consult the instructions for a particular line (or vice versa), since the numbering of lines begins with "1" in each part, rather than numbering the lines consecutively through the Core form.

General Instructions E. Electronic filing for us would be possible except for Schedule F, where extra pages will be needed (see my comments there). Larger organizations *required* to file electronically would find it impossible (and then it would be considered not to have filed its return).

General Instructions J. How would the required signature be affixed on electronic filings?

Form 990, Part I. Summary (There are no instructions for these lines.)

Line 2. Significant activities are to be assigned activity codes (Part IX), but there are no instructions as to what these activity codes are (either in Part IX or in the instructions for Part IX). I have noticed that in some government questionnaires we receive, codes for activities are notoriously not applicable to us. We report on two major activities, but I imagine that any activity code provided would force us to lump everything we do into one activity which would most closely approximate a code. WHY HAVE CODES? To be most transparent, we should be able to define the activity for ourselves. Or can we use one code for several divisions of activities we might have?

Line 19b. Percentage of contributions. Having the column for percentage of *expenses* is o.k. if you require percentages at all. (Even that is problematic, because you can't really compare fund-raising expenses of an organization whose program activity is media communication with those of us who have to do fund-raising separately to a whole different audience.) But bringing attention to *percentage of contributions* can be meaningless or even deceptive. A high level of contributions received in one year can carry over to be used the next year while fundraising expenses may remain pretty constant from year to year. On the other hand an organization may not invest in development because of the stigma of a high percentage, but if they did so, it might result in the fruit of higher contributions in the following year(s). It's not a good percentage to track. *Please consider omitting this line.*

Line 24b. Total expenses as percentage of net assets. This might be a significant percentage for a business, but why would it be meaningful at all for a non-profit? Many non-profits like to operate lean; some think this is bad, some think it is good. I don't think the IRS should be involved in this kind of evaluation. (Net assets include property and equipment at cost basis and then depreciated, so net assets in our case are significantly lower than the value of our property. Also, we use hundreds of volunteers, so our expenses are even lower than they would normally be.) We, for instance, DO A LOT with a little. Some people think that is good. It might not look good here. *Please consider omitting this line.*

Line 26. A person looking at this Form would wonder why we didn't fill out this line or submit Schedule G and yet list substantial fundraising expenses on the next page. Even if there were instructions to clarify this, they wouldn't have access to them. Schedule G itself says it must be completed by organizations that report more than \$10,000 on Form

990, Part IV, line 11a or Part V, line 11e. Please consider changing the description of Line 26 to *Professional fundraising or events over \$10,000*. Omit "other than gaming."

Part II. Section A, column C. Would we check the box only for the *full-time* officer employed, not the two *part-time* employed officers?

Part III. Line 2: The instructions describe organizing or governing documents as including board policies that are not normally considered part of the governing documents (e.g. Articles, Bylaws, etc.) Why the need to report changes to conflict of interest policies, or other policies? That seems extreme. It seems sufficient to ask if we have such policies in the subsequent lines. "Governing documents" not in Glossary.

Line 10. Would you really require the entire governing body to actually review the Form 990 before it is filed? Would not the audit committee be sufficient? Add "or board committee"? This is a huge form for the entire governing body to review! (I love looking at 990's myself, but not everybody is a finance person.)

Line 11. What is the difference between "Financial Statements" (financial statements which are not audited?) and "Audit Report" (which includes the audited financial statements)? Other ways of making them available are by e-mail or mail upon request. Either put on form, or add to instructions as example.

Part IV (Is there enough space on the lines, especial line 1f?)

Instructions for Part IV say that organizations must complete Columns (B) through (E). There is no Column E. Should refer to Columns (B) through (D).

Instructions for line 6. Defines contemporaneous minutes as the LATER of the next meeting of the governing body or 60 days after the final action or actions of the governing body are taken. Do you mean EARLIER? The next meeting of the governing body could be up to six months later; 60 days would be earlier and should be the maximum time to get the minutes done.

Lines 7 and 8. We pay royalties on donated mineral rights, which we have been reporting on line 8: "Other investment income." We can't really report in on the new Line 7 for royalties (for intellectual property). Consider adding a *space for describing* "Other investment income" on line 8 and keeping the instructions you used previously.

Instructions for line 9. Answer "yes" if the organization had an audit committee on the

last day of the *taxable* year. Please change to "fiscal" or "calendar" to clarify.

Line 14 (consider adding: Report on Schedule D, Part XIII, line 1).

Part V, line 3. Consider adding: (Complete Schedule F if)

Line 11. Fees for services (non-employees): Should this be "professional services" or "independent contractors"? How many services do we have done for us by non-employees, including repairs and maintenance of all kinds (they work for other companies)?

Line 11g. Other: Leave a space for inserting what the "Other" is. We pay professional fees for an OSHA consultant.

Line 13. Office expenses. NEW LINE. Now includes printing and shipping (instead of having separate lines for *Printing and Publications* and *Postage and shipping*). Our BIGGEST program activity expenditures are Printing and Shipping (beyond mere office-type expenses). Also omitted is Supplies. Some of our supplies can be put on an Office expense line, but not the supplies used in our printing plant. PLEASE AT LEAST ADD BACK IN: *Printing and publications* as well as *Postage and shipping*. (It seems to me this would impact THOUSANDS of non-profits). Any office-type expenses in these categories would be put under *Management and General* and *Fundraising*.

Line 24. Consider adding "Report on Schedule D, Part XIII, line 2."

Part VI. Balance Sheets (should continue to be plural, as two years are reported).

Part VII. There are no instructions for lines 1a, 1b, 10, 13, 14.

Line 8a. Does this mean conducting its exempt activities through ANOTHER corporation, etc. If the filing organization itself IS a corporation, it is conducting its activities through a corporation.

Line 13. Should the second line begin, **If "yes,"** enter..... ? (Or is this for everyone? There are no instructions.)

Part VIII. (VERY HELPFUL to bring to our attention other required filings.) Line 4a and b. No instructions. From Glossary, I assume that "personal benefit contracts" do NOT include group health premiums paid to benefit the employees.

Should TIP on filing Form 4720 be on the form itself?

Lines 10a and b. Forms 1099 and the number filed. If this is to flag possible abuse of independent contractor status, you should ask specifically for Form 1099-MISC. We file a very few Form 1099-MISCs, but *dozens* of Form 1099-R for gift annuity payments sent to donors. (We have not received Gift Annuity agreements since 1998, but we still have to make lifetime payments to dozens of gift annuitants.) Many non-profits solicit Gift Annuities, so would file hundreds, if not thousands, of Form 1099-Rs each year.

Line 14 is not well-constructed. How could one answer this correctly? If you didn't receive contributions of qualified intellectual property, you could say "NO." Or should you say "YES" because you didn't get any, so none were required and so you filed none. This line should be similar to Line 13. The question of receiving any is first, then b says, If "yes," did you file Form 8899 as required?

Part IX. How is line 2 different from lines 3a, b, and c? Be more specific in instructions about what information you want that would be different.

Program services require Activity Codes. None are given. (As I commented on page 1, I don't think this is very helpful, because it is probably impossible to come up with enough codes to cover all the bases of all non-profits' major program activities.)

To require electronic filing, there will need to be a way provided to attach additional schedules on line. It is also helpful for those who make the Form available online. (Don't have to scan hard copies.)

Instructions end with an item about Donated Services. This is a great idea—to suggest describing them in the narrative description of the appropriate program service. The last line says, "See the instructions for Part IV, Line 1, *Donated Services or Facilities*." There is nothing about this there.

Comments to the IRS on Revision of Schedule A

In the Overview, you mentioned that Parts II and III "eliminated requirement to use cash method." Does one still use the same amounts reported for previous years (under the cash method) when completing this part, or does that not actually affect anything?

When not including "unusual grants," how can one attach a schedule and file electronically? (Doesn't affect us.)

Instructions for line 5. "whose total gifts *for during the four* preceding years" should read "whose total gifts *for the five* preceding years." (The schedule itself says "whose total *payments* for 2005 through 2009," which is five years. It should say "gifts"—as previously—or "contributions" rather than "payments.") If there is a reason for using "payments," please explain in instructions.

Comments to the IRS on Schedule D

Part XIII, Line 4. Spell out BOY, "beginning of year."

I like having a place to report things, instead of having to include customized schedules. Thanks!!

Comments to the IRS on Schedule F

I can understand your need to have more information about overseas activities, but this schedule will not only be a burden, but a CRUSHING, HUGE burden to many, even small organizations, whose major activity is to provide materials and aid for foreign countries. It will present a GREAT security risk for those who are doing ministry in countries, where they do not want it available on-line to potentially hostile entities outside the U.S. (Even just listing some of the countries may be a *security risk to the filing organization*). *Please consider making the schedule—especially page 2, with names of organizations—CONFIDENTIAL.*

This form is a HUGE LEAP from asking just one question to asking for such detailed information. We ourselves do most of the printing of Scriptures here in the U.S., but for some countries we have to do printing inside the country (last year 5 countries, totaling \$97,190). Now that the U.S. Postal Service no longer provides international surface mail service (and air service to only 30 countries), we depend more heavily on people inside countries to distribute the materials from ship containers we send. That involves 16 additional countries (we paid a total of \$66,230). We do not provide grants, but pay reimbursements of actual expenses incurred. We do not have employees or bank accounts in other countries. Those to whom we send funds work for other organizations who volunteer their time to us. They are happy to be able to use the materials in their own ministries and share it with other ministries. This is 21 countries that we would have to list (funds sent directly overseas to those who are not affiliated with an organization in the U.S.).

A helpful thing would be to put lines 5a and b (with table) on page 2, giving more lines on page 1.

Parts II and III. Back side of page had to be rotated for the form to fit on the page.

We send material we print to THOUSANDS of recipients in about 190 countries in any given year. It isn't a personal assistance to any of them. It's something they want to be able to give away. And in our case none of it is a functional expense listed in Part V, line 3. But for those organizations who receive and dispense non-cash donations (clothing, medical, food, etc.) that they have to put a value on, I can't imagine what an awesome burden it would be to have to list every organization in the world they send over \$5,000 worth to and find out if they were tax-exempt in the U.S. or not, etc.

A number of large non-profits who do ministry overseas aren't even required to file Form 990 because they are affiliated somehow with a church. They will not have this burden, and that doesn't seem fair to those who will have this burden.

I am wondering if there is any middle ground here, between the one question previously asked, which is undoubtedly inadequate, and going to this extreme of information?

1. Maybe keep it to cash questions? How much cash spent in or sent to foreign countries?
2. Maybe keep it to outright grants (as opposed to paying for services relating to the filing organization)?
3. Maybe keep it to number of countries impacted, number of overseas employees paid directly, number of offices and accounts, etc.

After using the revised form awhile, you would then know what other information you actually need, if any.

Comments to the IRS on Schedule M

Would Lines 16 and 17 include donated vacant lots? (If so, include as examples in Instructions.)

Lines 23, 24, 25, 26. Suggestion: Instead make **Line 23 Other:** and **Lines 23a, 23b, 23c, and 23d** blank lines for descriptions.

Would it be good to provide a **"Total" line for Column (b)** which would need to agree with Form 990, Part IV, line 1g as stipulated?

Line 27. Mark "Unknown" rather than leave blank if unknown (not supposed to leave things blank!)

Line 29. Typos on line 2: Should be "initial contribution."

Thanks for the opportunity to comment.

Submitted by:
Mrs. Vicky R. Benson, Vice-president
World Missionary Press, Inc.
P.O. Box 120
New Paris, IN 46553
Vicky@wmpress.org
(574) 831-2762

From: [Richard Potts](#)
To: [*TE/GE-EO-F990-Revision;](#)
CC:
Subject: Letter to IRS (8-28-07)
Date: Thursday, September 13, 2007 1:48:41 PM
Attachments:

Following are the comments of the National Council of the Boy Scouts of America regarding the draft Form 990.

August 28, 2007

Internal Revenue Service

Dear Sirs:

Please find our comments related to the draft Form 990.

1. Part I, line 2. Allocate adequate space here for the organization to describe its service accomplishments instead of using codes. Using codes requires a reader to do more work. If page 1 of Form 990 is to be a “snapshot” or “one stop shop,” then requiring the reader to look elsewhere defeats your goal. This is some of the most important information on the return and should be given adequate space.

2. Part I, lines 5 and 6. We do not believe that this information is significant enough to warrant disclosure on the “snapshot” page. This space could be more effectively used to describe service accomplishments. Further, the apparent extreme significance of the \$100,000 compensation threshold is lost on us. We do not understand how this disclosure will help anyone better assess a charity.

3. Part I, line 9. We believe that the form should provide adequate space to briefly describe the source of UBR. UBR tends to have a stigma anyway, so this should make it easier for a user to understand why an organization is reporting UBR.

4. Part I, line 21. Use of the term “net income” is inappropriate for obvious reasons.

5. Part I, line 24b. Eliminate this statistic. It is irrelevant without significant explanation. For example, entities with significant investments in program-related property, plant and equipment come off as being less efficient than those who don’t have these investments and perhaps lease or rent the same facilities.

6. Part II, Section A, line 1a, column C. We believe that disclosure of the average hours devoted during a specified period of time is more informative than a simple “full time/part time” disclosure.

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Service
Page 2
August 28, 2007

7. Part II, Section B, line 5. We believe that information about the existence of conflict of interest policies and purchasing/bidding procedures in place to ensure arms-length transactions is more

meaningful. At the very least a threshold should be established to exempt de minimus activity from this reporting burden. As drafted, the detail information required of this disclosure will be tedious and overly burdensome to accumulate. An example could be that a volunteer member of the governing body fills a key management position in a large hotel chain in his/her professional capacity. The prescribed disclosure would require that each time an employee stays at that hotel chain (including all branded affiliates), an organization has to identify the transaction and report it on line 5f. We do not believe that this kind of information would be useful to users of Form 990.

8. Part II, Section B, line 9. We believe that: a) this question is ill-conceived as an organization is not necessarily situated so as to know whether an individual has received compensation from a third party; and b) if such an arrangement did exist, the organization is not privy to the types of information required by Schedule J about the individual's relationship with the third party.

9. Part III, line 10. Governing bodies of many charities are quite large. We believe that an authorized subset of the governing body is sufficient for this oversight, especially given the fact that many organizations struggle to meet filing deadlines already.

10. Part III, line 3b. We believe that this question is ill conceived. What good does it do to report any number here? It tells the Service and/or user absolutely nothing. We believe that it would be more informative to ask whether the organization communicates its conflict of interest policy regularly, seeks representations of compliance regularly and regularly investigates allegations.

11. Part IV, lines 9-12. The form, as designed, probably doesn't provide adequate space for the information required.

12. Part V, line 12. The instructions indicate that a number of natural

expense categories (say, printing related to an in-house fundraising campaign) should be incorrectly categorized as “advertising”.

We disagree with this approach and don’t really understand why the Service would impose such a requirement.

13. Part V, line 21. The instructions should include a concise definition of “affiliates”.

14. Schedule D, Part XII. Refers to Form 990, Part VII, line 6, which is a question about tax exempt bonds. Obviously, this reference is incorrect. Fundamentally, we believe that the Service must provide concise guidance concerning the definition of “endowment.” This is not a universally accepted term.

15. Schedule J – Eliminate the requirement to report “Non-taxable expense reimbursements”. These are not elements of compensation. Draft Schedule J requires that these sums be added to actual compensation to produce column (F) “Total”. No doubt charity “watchdogs” and others will report this total as compensation which is false and misleading.

Internal Revenue
Service
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August 28, 2007

16. Schedule M, Part 1, Column C. In certain circumstances, donor’s self-assess FMV. A charity may not be privy to the donor’s method of valuation.

Sincerely,

Richard N. Potts
Controller
National Council of the
Boy Scouts of America

From: [Cindy Stone](#)
To: [*TE/GE-EO-F990-Revision;](#)
CC:
Subject: 990 proposed draft comments
Date: Thursday, September 13, 2007 1:18:40 PM
Attachments: [990comments\].doc](#)

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In response to the release for comments regarding the Summary of IRS Draft form and discussion of a redesigned Form 990, please review and consider the following comments.

Part II: Compensation of Officers, Directors, Key Employees and Highly Compensated Employees, Schedule J, provides a new table for listing and reporting information pertaining to current and former officers, directors, trustees and key employees. Currently, the organization's address is acceptable for each person. However, on the new table the individual's address, where the person resides, is required. This information appears to be unnecessary as the IRS can certainly obtain individual's addresses without including them on the form 990. The form 990 is available to the public on the Web and must also be available on-site for Public Inspection. Therefore, including individual addresses is a violation of board members privacy as private addresses would be available to the entire public. Please note that most not for profit board members are not compensated. They work long and hard to help support missions they believe in and are extremely valuable to the not for profits they serve and help. It is often difficult for not for profits to recruit qualified and experienced board members. This requirement would discourage people who do not want their address made public from participating on any not-for profit board.

Section H must be completed by all organizations that provide medical care. This schedule is designed to capture information on community benefit, collection and billing practices, and descriptions of how the organization furthers its exempt purpose. However, the form is focused and based on only hospitals. Community benefit is important and is worth reporting on the 990, as well as communicating to the IRS and to the public. We are a not for profit CCRC and feel we do provide community benefits. However, at the present time the guidelines for tracking and reporting community benefits are confusing and unclear. They are geared to Hospitals and need to be clarified for other entities. The information available at this time does not explain exactly what to include, how to track, and what specific documentation will be required. Therefore, although we support the concept regarding community benefit reporting, we are requesting the IRS publish better explanations and guidelines so we can track, document, and report community benefits accurately.

The revised draft form 990 appears to require additional time and effort by not only by the internal staff of each organization, but also by external form 990 preparers. This would force preparers to increase their fees, perhaps significantly. Please note that many not for profits are already struggling financially. This would place an additional burden on not for profits. Therefore, please consider time requirements when reviewing the proposed Draft form 990.

The Form 990 is a valuable tool and is a great snapshot of any not for profit organization. The form has not been revamped in 25 years and is certainly worth the time and efforts of the IRS. However, please consider the above comments in your discussion and revisions.

Sincerely;

Cynthia K. Stone, Controller

From: [Carol](#)
To: [*TE/GE-EO-F990-Revision;](#)
CC:
Subject: Concerns
Date: Thursday, September 13, 2007 12:30:53 PM
Attachments:

My concerns are that the reporting requirements as proposed will increase the cost of preparation for small institutions such as The Museum At Warm Springs and diminish further our ability to serve the community.

The requirements seem to be as detailed as those required by funding foundations in grant applications...why?

The proposed requirements for governance are difficult in "Indian Country" since these small communities are made up of many extended families and it is nearly impossible to find people who are not related to Board or staff.

Why can't reporting accomodate the different sizes of institutions, rather than a "one size fits all" approached directed at huge foundations/institutions.

Carol Leone
Executive Director
The Museum At Warm Springs

From: [Development](#)
To: [*TE/GE-EO-F990-Revision;](#)
CC:
Subject: Concerns
Date: Thursday, September 13, 2007 11:29:14 AM
Attachments:

Dear Sir:

As I look at the present Form 990, I find its detail confusing and difficult. it is expensive for our organization both in dollars and time. We are a Christian organization, and our integrity is important to us, which means that we want to comply with regulations. We live in fear that we might make a mistake. Any revision of the form needs simplification.

Thank you.

Paul Borgman
Development Director

From: [Collier, Rob](#)
To: [*TE/GE-EO-F990-Revision;](#)
CC: [Lindberg, David;](#)
Subject: Document attached
Date: Thursday, September 13, 2007 9:02:14 AM
Attachments: [Final IRS Letter on Letterhead.doc](#)

Thank you for the opportunity to comment on the proposed 990 changes.

Rob Collier, President
Council of Michigan Foundations

Read [this week's NewsWire](#) on issues affecting Michigan grantmakers at www.cmif.org.

[Register today](#) for CMF's 35th Annual Conference -
Transforming Michigan: Leading, Innovating, Collaborating - Hyatt Regency Dearborn
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September 12, 2007

Internal Revenue Service
Form 990 Redesign
ATTN: SE:T:EO
1111 Constitution Ave. N.W.
Washington, DC 20224

Re: Comments Regarding Draft 990 Revisions

The Council of Michigan Foundations (CMF), the statewide regional association representing over 400 grant makers in Michigan, would like to commend the IRS on working to make the Form 990 more user friendly, understandable for the general public and reinforcing good governance practices.

After holding a conference call with our members in mid August and reviewing the draft comments developed by Independent Sector (IS) we offer the following recommendations for your consideration.

Effective Date of New Form

The effective date should be delayed to start with the fiscal year ending December 31, 2009 and later. We concur with IS's comments that many organizations may have to adjust their record keeping to gather additional information and having those changes in place by January 1, 2008 is not enough time, especially with the final version of the 990 still in the works.

Summary Page

Due to the recent enactment of the Pension Protection Act of 2006, supporting organization type should be listed on the first page of the form.

Part I line 7 – Should be deleted

Listing the highest paid position could be misleading to the general public without a lengthy explanation of the person's responsibilities and how the organization is structured to carry out its mission. This information should continue to be provided in the detailed schedule.

Part I line 19b – Should be deleted

The payoff for fundraising may be several years down the road from when the activity took place, and how organizations conduct their fundraising varies widely from one public charity organization to the next. The number for fundraising should continue to be provided in the detailed schedule.

Part I line 24b – Should be deleted

There could be large swings in this percentage from one year to the next especially where multi-year grants are involved. A multi-year grant would be booked as revenue in the year awarded with the bulk of the expenses showing up in future years.

Part II – Lower the compensation threshold

While we understand the rationale for raising the reportable compensation to more than \$100,000, unfortunately this will result in the loss of comparable salary data for all except the largest organizations. Despite the efforts of national organizations to conduct annual salary surveys, the Form 990 continues to be the best way to collect this data.

We concur with the IS comments about not listing the city for trustees.

Part III – Divide into compliance vs. informational

As noted by IS, this section should be broken down into those items that are statutory compliance issues versus informational and best practices.

Line 3 b – Should be deleted

Listing the number of transactions reviewed could be misleading. A high number may mean an organization is better at identifying conflicts than others. It's also unclear if a trustee abstaining from a vote would be counted in this line item.

Part VII line 11 & 12 – Further explanation

For organizations that may not be familiar with this area a further explanation in the instructions detailing the issues with disregarded entities, related organizations, etc. would be helpful.

Part IX line 2 – Delete this item

We think it will be hard for many organizations to pick the most significant program service accomplishment.

Part IX, line 3 – Modify definition of Direct Revenue

Column A – Direct Revenue should include grants received to support the program, since that would normally be the major funding source.

Schedule D Part XII – Modify this section

A comment noted by a CMF member, "in some cases an endowed fund may receive non-endowed gifts that are meant to be granted out within the same year, so that needs to be taken into account depending on what conclusion the IRS is trying to draw from this information."

Under Grants "or" scholarships we think this should be "and".

Schedule G – Raise the threshold to at least \$25,000

We think the current threshold for filling out this form should be raised from \$10,000 to \$25,000 or \$50,000 due to the burden this would place on smaller organizations and the immateriality of the current dollar limit.

Schedule M – Raise the threshold to \$5,000 per item

We would suggest that the criteria for filling out this schedule be based on the dollar value of the individual item, like \$5,000, versus the current criteria due to the immateriality of the smaller gifts.

Thank you for the opportunity to comment on the proposed changes to the Form 990.

Sincerely,



Robert S. Collier
President

cc: Senator Debbie Stabenow
Congressman Sander Levin
Congressman Dave Camp