

CLARK NUBER

Getting Ready to Report Revised Form 990 April 9, 2008

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Revised Form 990

- Core Form
 - 11 Pages
- 15 Schedules
 - A through O and R
- Revised instructions 4/7/2008
 - 55 day comment period (June 1, 2008)

Three Guiding Principles

- Transparency
- Compliance
- Burden Minimization

Transition Relief (May File EZ)

Year	Gross Receipts	Total Assets
2008 (File in 2009)	>\$25,000 & < \$1 Million	< \$2.5 Million
2009 (File in 2010)	>\$25,000 & < \$500,000	< \$1.25 Million
2010 & Later (File in 2011 & Later)	> \$50,000 < \$200,000	< \$500,000

Caution on 990EZ

- DAF sponsoring organizations may not file
- Controlling organization (>50%) for purposes of 512(b)(13) – UBI
- Small print in header and Questions 44 & 45

Form 990-N

- Electronic Notice (e-Postcard) for Tax-Exempt Organizations below filing threshold for Form 990 or 990-EZ
- Applies to small tax exempt organizations whose gross receipts are normally \$25,000 or less (< \$50K 2010 tax years and later)
- Must be filed electronically <http://epostcard.form990.org/>
- Revocation of exempt status after three years of non-compliance

Form 990 EZ

- Page 1 – No change
- Page 2 – More lines on Part IV (O/D/T/KE)
- Page 3 – Activity Change (33) slightly different
 - No free-form attachments use N & L
 - New 44 & 45 (disqualify from EZ)

Form 990 EZ

- Page 4 – Only 501(c)(3) Organizations
 - Political question 46 yes/no – Sch C
 - Lobbying question 47 yes/no – Sch C
 - Info on former Sch A:
 - Lobbying – Sch C
 - School – Sch E
 - Transfers to exempt non-charitable orgs
 - Highly compensated employees and Contractors (**NOTE: Threshold now \$100,000**)
 - Signature check box for disclosure

Form 990 EZ – Schedules

- A – Public Support: Non- (c)(3) info moved to other schedules (All 501(c)(3))
- B – Schedule of Contributors (>\$5,000)
- C – Political & Lobbying Activities (Q 46 & 47)
- E – Schools (Q 48)
- G – Replaces unstructured info for Line 6: Special events (>\$15K Line 6a)
- L – Transactions with Interested Persons
- N – Liquidation, Termination, Significant Disp.

Core Form 990

- Page 1 – Summary Schedule & Signature blocks
- Page 2 – Description of Activities
- Pages 3 & 4 – Questions for Add'l Sch
- Page 5 – Compliance Questions
- Page 6 – Governance/Policy/Disclosure
- Page 7 & 8 – Compensation
- Page 9 & 10 – Detail Rev & Exp
- Page 11 – Balance Sheet

What's New

- Most information relocated from the existing form
- New questions on governance, compensation and processes
- Eliminates most free form attachments

Page 1 - Header

- Added DBA
- Added Name & Address of Principal Officer
- Added type of organization
- Added year of formation
- Added State of domicile

Page 1 – Part I & II

- Mission moved to Page 1
- # board members & voting members
- # volunteers & employees
- Net UBI information
- Current & prior year financial info
- Expenses by class not functional category
- Check box for paid preparer authorization

Page 2 Program Activity

- Mission & Exempt activities moved
- 1st Sch O opportunity- activity change
- Code (not for 2008) NTEE or other
- Report direct revenue from programs
- Still recommend illustrating with data

Page 3 Part IV – Checklist

- Many questions just moved or asked in y/n to highlight need to attach schedule. i.e.
 - Q1 – Affirmatively asks 501(c)(3) or 4947(a)(1) other than PF – Sch A
- Q8 – Art collections or historical treasures : Sch D
- Q10 – Endowments: Sch D
- Q 14a – Foreign activities: >\$20K Sch F

Part IV – Checklist (cont)

- Q15 &16 – Foreign grants: > \$5K Sch F
- Q17 – Prof. fundraiser: > \$15K Sch G
- Q18 – Fundraising event: > \$15K Sch G
- Q 19 - Gaming: > \$15K Sch G

Part IV – Checklist (cont)

- Q 20– Hospital: Sch H
- Q 21 & 22 – Domestic Grants: > \$5K Sch I
- Q 23 – Former O/D/T/KE > \$10K/\$100K Sch J
 - Current O/D/T/KE > \$150K Sch J
 - Comp from unrelated org? Sch J
- Q24 – Exempt bond: >\$100K Sch K

O/D/T/KE (Officers/Directors/Trustees/Key Emp)

Page 4 - Questions

- Q28: Current, former or family of O/D/T/KE transaction with Org - Sch L
- Q29: Non-cash cont >\$25K - Sch M
- Q30: Contribution of Art, Historical or Conservation Easement - Sch M
- Q37: >5% of activities conducted through an unrelated partnership – Sch R

Page 5 Part V Other Filings

List of Yes/No questions

- Q1a # on box 3 of Form 1096
- Q1b # of Forms W2-G (Gambling)
- Q1c Comply with 1099 requirements
- Q2a # of employees on W3
- Q2b Comply with payroll filings
- Q 5b Notified party to prohibited tax shelter (Form 8886)

Part V Other Filings (cont)

- Q7a & b – Expanded quid pro quo questions
- Q7c & d Disposal of contributed property file Form 8282
- Q7g Intellectual prop. cont. Form 8899
- Q 7h Cars, boats, planes Form 1098-C

Page 6 Part VI Governance

Series of yes/no questions

- Q2 – Better defined (>\$5K threshold)
- Q3 - Outsourcing mngt. or gov. duties
- Q5 – Material diversion of assets
- Q6 – Org. has members or stockholders
- Q7a – Member/SH elect governing body
- Q7b – Board decisions ratified by member/sh
- Yes to Q2 – 7: Sch O

Part VI Governance (cont)

- Q8a Board keeps written minutes
- Q8b Committees keep written minutes
- Q9a Local chapters/branches/affiliates
- Q9b – Written policies for affiliates
- No to 8 or 9: Sch O
- Q10 – 990 reviewed by board: Sch O
- Q11 – O/D/T/KE not reachable at org's address: Sch O

Page 6 Policies/Disclosure

- Process for dealing with conflicts of interest: Sch O
- Whistleblower policy
- *Written* document retention policy
- Process for determining compensation of O/D/T/KE (rebuttable presumption of reasonableness steps): Sch O
- Written policy on Joint Ventures
- Describe public disclosure: Sch O

Page 7 Compensation

- Overflow on J-2
- All current O/D/T/KE
- 5 Highest paid employees >\$100K
 - W-2 box 5, 1099 box 7
- Former O/D/T/KE > \$100K comp (including related organization payments)
- Former O/D/T/KE > \$10K severance (including related organization payments)

Page 7 Compensation

- Ordering of list
 1. Individual trustee or director
 2. Institutional trustees
 3. Officers
 4. Key employees
 5. Highest paid employees
 6. Former persons in same order
- If no comp, check box
- No address
- Check all relationships that apply
- Calendar year data even for fiscal orgs.

Page 8 Compensation

- Q3 – 5 Check boxes for need to file Sch J
 - Formers with any compensation
 - Current individual >\$150,000 combined
 - Any comp from unrelated org for service to reporting organization
- 5 Highest paid contractors >\$100K threshold total number of additional

Page 9 – Revenue Detail

- All revenue including contributions on one page
- Elimination of UBI and exempt codes
- Business code for exempt revenue
- Q 8 & 9 \$15K threshold for Sch G filing
- No breakout of DAF contributions
- Memberships in contributions; program memberships go on line 2

Page 10 Functional Exp

- No material changes
- Detail still only (c)(3) & (c)(4)
- Q3: separate reporting of foreign grants
- Q11a – g: non-employee services
- Q12 – 15 & 23: Added common “other”
 - Advertising/promotion
 - Information technology
 - Insurance
 - Office exp
 - royalties
- 5% “misc” limit moved to face of form

Page 11 Balance Sheet

- Separates PRI from Program bldg, land, equip, etc. (later in org. totals)
- Structured attachments/sch
- Sch D provides detail in the aggregate
- Sch L for related party rec'v and liab.

Page 11 Financial

- Method of accounting moved from header
- Compilation/review or audit?
- Audit (review/comp) committee?
- A-133 audit for federal funds?

Schedule A- Public Charity

- All 501(c)(3) organizations
- **Five year test including current year**
- Split 509(a)(1) and (a)(2) public support tests
- **Does not require cash basis**
- 509(a)(2) T Regs require cash basis ?
 - **Perhaps new T. Regs to follow**
- Adds “facts & circumstances” disclosure for 509(a)(1) charities

Schedule B - Contributors

- 501(c)(3) Organizations with contributions > \$5,000
- Government contributors added to list in most recent instructions

Schedule C – Political/Lobbying

- Moved from existing Sch A
- Extended political reporting Part I A to all 501(c) organizations & 527 PACs
- Extended political reporting Part I C to all 501(c) except 501(c)(3)
- Lobbying reporting still limited to (c)(3) organizations only

Schedule D – Financial

- Standardize additional detail required by the core form
- Implements thresholds for completing
- Clarification on easements to conservation only
- Information on off-balance sheet art and historical collections
- Trust/escrow/custodial – credit counseling agencies only
- Fin 48 retained Part X

Schedule E - Schools

- Unchanged
- Used to be on Schedule A

Schedule F- Foreign

- Reporting by “Region” not country
- IRS may not redact information unless authorized by statute
- **Reporting Threshold: \$10,000**
aggregate expenses or revenues
- Three Parts
 - I General information on activities
 - II Grants to orgs or entities outside the US
 - III Grants to individuals outside of the US

Schedule G - Fundraising

- Part I threshold **\$15K**
- Line 2b Threshold **\$5K Top 10 highest paid fundraisers** – **Not required for 990EZ**
- Part II & III Filing Threshold **\$15,000 & \$5K per event**
- Splits fundraising and gaming
- Distinguishes whether fundraiser or organization controls funds

Schedule H - Hospitals

- Phase in over 2 years
 - Only Part V – Facility Information
 - Parts I - IV Optional 2008 (charity care, community benefit, bad debt & JV management companies)
- Hospitals defined by state law
- Reporting will be by entity (non-consolidated)

Schedule I - Grants

- Domestic grants to entities and individuals
- Replaces “free form” attachment
- **\$5,000 aggregate filing threshold**
- Includes foreign orgs with U.S. Equivalency

Schedule J - Compensation

Classification	Current	Former
Directors & Trustees	Reportable compensation >\$150K *	All listed on Part VII**
Officers & Key Employees	Reportable compensation >\$150K *	All listed on Part VII
5 Highest compensated employees	Reportable compensation >\$150K *	All listed on Part VII

* Combined reporting org and related organizations

** Except institutional trustee

Schedule J - Compensation

- Information on benefits to O/D/T/KE
 - 1st class travel
 - tax indemnification
 - housing allowance
 - personal services
 - companion travel
 - expense allowance
 - club dues or fees
- Reasonable comp. documentation
- Prior year compensation
- Non-taxable benefits (not expense reimb.)

Schedule K – Tax Exempt Bonds

- Phase in
 - Part I only for 2008
 - Parts II, III, IV optional until 2009
- Increase transparency and compliance
- **Threshold > \$100K outstanding bonds**

Schedule L – Related Transaction

- Transactions with “interested persons”
 - Current & former O/D/T/KE/ & high 5 emp.
 - 501(c)(3) & (4) include 4958 (f)(1) DP
 - For 509(a)(3) SO includes 4958(c)(3)(B)
- Replaces free-form attachments
- Also includes non-loan transactions
 - Excess benefit
 - Grants
 - Business transactions

Schedule M – Non-\$\$ Cont

- Threshold for filing **\$25K**
- **Any amount of art and other contributions not reported as income**
- No quant. for books/pubs/clothing/goods
- Donor imposed holding >3yrs w/out exempt use requirement?
- Gift acceptance policy require review of non-standard gifts?
- Use 3rd party to solicit, process or sell non-cash contributions?

Schedule N - Termination

- Termination/Liquidation/Disposition
- Disposition of > 25% of organization's assets
- Eliminates free form attachments
- Required for non-public charities
 - Discloses impermissible pvt inurement
- Questions regarding role of KE/O/D in successor organization

Schedule O - Other

- Lots of information including
 - How is return reviewed by the board?
 - How is KE/O/D compensation determined
 - Is a rebuttable presumption created for all related transactions
 - Information on how to contact O/D that cannot be reached at the orgs address
 - Core Form Part VI explanations

Schedule R – Entities

- Related Organizations & Unrelated Ptr
- **Threshold reduced to 5% of the organization's activities in a JV**
- Restricted reporting to 512(b)(13) transactions (interest, rent, royalty, etc)
- Added check the box section to disclose type of transactions
- Eliminated specific description of each transaction

Conclusions

- Phase – in transition relief should help
- Evaluate benefits of EZ in transition
- Track what is new
- Mostly information was shuffled
- Pay attention to increased thresholds
- Get policies in place before 12/31/2008
- Best efforts matter

Thank You

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