

# Form 990 Series Developments and Request for Comments Regarding Possible Changes

## Announcement 2002-87

The Internal Revenue Service is seeking to improve both the content and quality of the information provided on the Form 990. The Service has made changes to the Form 990, *Return for Organization Exempt from Income Tax*, and is considering making other changes. This announcement contains explanations of recent changes made and identifies additional areas where changes are being considered. Comments are requested on these possible changes.

### Fundraising

The Service is considering additional reporting requirements for organizations that engage in fundraising. Recent changes to Form 990 and the Instructions affect the way organizations report fundraising expenses. Both recent changes and possible additional changes are discussed below.

### Recent Changes

#### Fundraising Reporting

The Service revised the instructions for Part I, line 1a, of Form 990 to clarify that a filing organization must report the **gross amount raised** by an outside fundraiser and not just the amount actually received by the filing organization. This clarification was made because some filing organizations were reporting only the net amount received from outside fundraisers. By reporting only the net amount received, filing organizations were avoiding reporting certain expenses, such as fundraising fees, on Part II of Form 990.

In addition, the Service revised the instructions for Part II of Form 990 to emphasize that fundraising expenses should not be reported as program related expenses even when one of the functions of the organization is soliciting contributions for

other organizations. This clarification was made to help insure uniformity in the reporting of fundraising expenses. Some organizations were incorrectly reporting fundraising expenses as program service expenses using the rationale that fundraising was their program service.

#### New Check Box for Reporting Joint Costs

The Service added a check box in Part II of Form 990 for an organization to indicate whether it accounts for joint costs in accordance with the AICPA's Statement of Position 98-2 (SOP 98-2), *Accounting for Costs of Materials and Activities of Not-for-Profit Organizations and State and Local Government Entities that Include Fund-Raising*. The reason for the check box is to encourage the use of SOP 98-2 for the reporting of joint costs on Form 990, and to apprise viewers of the form as to the method used by the preparer.

#### Schedule A Attachments

The Service no longer requires an organization to attach the lists of contributors and disqualified persons to substantiate the amounts reported on Schedule A, Part IV-A, lines 26(b), 27(a) and (b), and 28. Instead, the organization must prepare these lists and keep them with its records.

### Issues for Comment

In an effort to improve the quality of fundraising reporting, the Service is seeking comments on the following possible changes to Form 990.

- Should it be mandatory for all organizations to complete columns (B), (C), and (D) of Part II? These columns identify expenses as program service expenses, management and general expenses, and fundraising expenses. Currently, only organizations described in § 501(c)(3) and (4) of the Internal Revenue Code and § 4947(a)(1) trusts must complete these columns. For all other organizations, it is optional. State regulators have expressed an interest in having this in-

formation from other organizations, such as § 501(c)(5), (6), (8), and (10) organizations. Because many states use this information to satisfy state and local filing requirements, such as those under state charitable solicitation acts, using one form to collect this information could reduce overall taxpayer burden.

- Should organizations be required to complete Part II in accordance with SOP 98–2? Alternatively, should it be mandatory only for certain Form 990 filers, such as filers whose assets exceed a certain dollar limit? Mandating the use of SOP 98–2 would insure greater uniformity and would allow for better comparison of fundraising costs among organizations. It would also bring Form 990 reporting closer to an organization’s audited financial statement.
- Should the Service make any other reporting changes that could provide the Service, the states, and the public with additional information about fundraising practices?

## **IRC 527 Political Organizations**

On July 1, 2000, Public Law 106–230 was enacted, imposing new reporting and disclosure requirements on tax-exempt political organizations described in § 527, including the requirement to file an annual information return for tax years beginning after June 30, 2000. In light of the new annual information reporting requirements, the Service made some changes to adapt the Form 990 for use by political organizations. In addition, it is considering whether other changes are necessary to improve annual information reporting for political organizations.

## **Recent Changes**

The Service revised Form 990 and Form 990–EZ to add a check box for § 527 organizations. The Service also revised the instructions to Form 990 and Form 990–EZ to reflect the new requirements for political organizations, including identifying items that political organizations are not required to complete. The Service also added instructions to Schedule B, Part I of Form 990 to advise § 527 organizations how to report contributor information.

## **Issues For Comment**

Some concern has been raised about affiliations and potential transfers of funds between § 527 organizations and other exempt organizations. While Form 990 requests information about related organizations, it does not require specific information about fund flows between any related organizations, including § 527 organizations. Although Schedule A, Part VII, of Form 990 asks for information about transactions or relationships with non-charitable exempt organizations, only § 501(c)(3) organizations and § 4947(a)(1) trusts that are not private foundations file Schedule A.

The Service is seeking comments on the following alternatives for reporting transfers and transactions between § 501(c) organizations and § 527 organizations.

- Should the Service require § 501(c)(4), (5) and (6) and § 527 organizations to complete all or part of Schedule A? While most of Schedule A is not relevant to non-charitable exempt organizations, Parts I and II concerning compensation paid may be relevant to non-charitable exempt organizations. This rationale may also apply to Part VII concerning relationships and transactions with non-charitable exempt organizations.
- Should the Service add a new part to Form 990 for reporting fund transfers and transactions between § 501(c)(4), (5), or (6) organizations and § 527 organizations? If so, should it include the same information collected in Part VII of Schedule A or only the information collected in question 51 of Schedule A?
- Should the Service move Part VII of Schedule A to the Form 990 and require all § 501(c)(3), (4), (5) and (6) organizations, § 527 organizations and § 4947(a)(1) trusts that are not private foundations to complete it?
- Are there any other changes to the form that would improve the information reported about § 527 organizations?

## **Foreign Grants**

Since the events of September 11, 2001, concern has been expressed that purportedly charitable organizations may be transferring funds outside the United States to

organizations or individuals suspected of supporting terrorist activities.

Currently, grants made by exempt organizations may be reported in two places on Form 990. Grants to other organizations and scholarship, fellowship, and research grants to individuals are reported on line 22. An attached schedule requires the name and address of the recipient, and the class of activity furthered by the grant. Other payments to or for the benefit of individuals are reported on line 23. The attached schedule for this line does not identify individual recipients. Instead, payments are identified by class of activity, *e.g.* “clothing for disaster victims.” Foreign grants are not identified separately on this attachment.

We would like comments addressing what further steps, if any, the Service should take to more effectively identify on Form 990 transactions that present a risk of the diversion of charitable funds, including the following:

- Should a separate schedule of grants to foreign organizations be required?
- Should domestic charities conducting foreign activities be required to provide more specific information about the flow of funds involved in these activities, or about the recipients of these funds?
- Should transactions other than grant-making, such as sales or leases where funds flow outside the United States, also be more extensively reported?

## **Corporate Responsibility**

Recent events have raised concerns about the integrity of financial disclosures by publicly traded companies. In response to this, there has been a great deal of discussion, as well as recent legislation, relating to the need for new rules to ensure ethical accounting practices and the veracity of public disclosures by such companies. Some of the measures include proposed rules to improve the quality of a company’s public disclosure, require that companies have independent audit committees, and to otherwise increase disclosures of transactions and financial relationships.

It may be argued that there are similarities between the need for veracity in the public information used by shareholders in making investment decisions and the need for veracity in the public information used by contributors and others in making decisions regarding exempt organizations. As a result, the Service is considering whether the Form 990 or other requirements should be modified to provide similar measures to increase public confidence in the integrity of the disclosures by exempt organizations. These measures could include:

- Whether exempt organizations should be required to disclose on Form 990 whether they have adopted conflicts of interest policies or have independent audit committees.
- Whether non-charitable exempt organizations should be required to disclose information about transactions with its substantial contributors, officers, directors, trustees, and key employees similar to the disclosures required in Schedule A, Part III, Question 2.
- Whether exempt organizations should be required to disclose on Form 990 any information in addition to that required in Schedule A, Part III, Question 2, about transactions or financial relationships with its substantial contributors, officers, directors, trustees, and key employees.
- Whether there are any other changes to the Form 990 or other requirements that would increase public confidence in the integrity of exempt organization disclosures.

## How to Comment

Public comments on any of the issues discussed above should be submitted in writing on or before January 28, 2003. Comments should be sent to the following address:

Internal Revenue Service  
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Washington, DC 20224  
Attn: David W. Jones  
T:EO:RA

Comments may also be sent via e-mail to *\*TE/GE-EO-1@irs.gov*.

## Drafting Information

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